

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 21, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 26, 2012

AMENDED IN ASSEMBLY MARCH 21, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1712

Introduced by Assembly Member Beall

February 16, 2012

An act to amend *Section 51225.3 of the Education Code*, to amend Section 17552 of the Family Code, to amend Sections 1502, 1505, and 1559.110 of the Health and Safety Code, to amend Section 11170 of the Penal Code, and to amend Sections 17.1, 101, 102, 107, 295, 303, 317, 361, 361.5, 366, 366.21, 366.22, 366.24, 366.25, 366.26, 366.3, 369.5, 375, 388, ~~450~~, 903.4, 903.5, 11253, 11263.5, *11361*, *11362*, 11363, *11364*, 11386, 11387, 11391, 11400, ~~11402~~, 11402.2, 11403, 11403.2, 16002.5, 16010, 16120, *16120.1*, 16122, 16123, 16501, 16501.1, 16501.3, 16503.5, 16507, 16508, 16514, 16521.5, 16522, 16522.1, 18251, 18964, and 18986.46 of, to add Sections 361.6, 362.5, 366.32, ~~and 727.25~~, *and 11363.1* to, ~~to repeal Section 11403.25 of~~, and to repeal and add Section 366.31 of, the Welfare and Institutions Code, relating to foster care placements, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1712, as amended, Beall. Minors and nonminor dependents: out-of-home placement.

Existing law, the California Fostering Connections to Success Act, revises and expands the scope of various programs relating to the provision of cash assistance and other services to and for the benefit of certain foster and adopted children, and other children who have been placed in out-of-home care, including children who receive Aid to Families with Dependent Children-Foster Care (AFDC-FC), Adoption Assistance Program, California Work Opportunity and Responsibility to Kids (CalWORKs), and Kinship Guardianship Assistance Payment Program (Kin-GAP) benefits. Among other provisions, the act extends specified foster care benefits to youth up to 19, 20, and 21 years of age, described as nonminor dependents, if specified conditions are met, commencing January 1, 2012.

This bill also would make a nonminor dependent who has been receiving specified aid, as described above, between January 1, 2012, and December 31, 2012, and who attains 19 years of age prior to January 1, 2013, eligible to continue to receive that aid, notwithstanding the age limitations in existing law, provided that the nonminor dependent continues to meet all other applicable eligibility requirements. Because moneys are continuously appropriated from the General Fund to defray a portion of the state's share of AFDC-FC benefits, the bill would make an appropriation, and also would impose a state-mandated local program by increasing county duties.

This bill would extend the date by which the State Department of Social Services is required to develop certain regulations to implement the extension of the above-described benefits to nonminor dependents, from July 1, 2012 to July 1, 2013.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of various community care facilities, as defined. Violation of the act is a misdemeanor.

Existing law defines Transitional Housing Placement Plus (THP-Plus) Foster Care as a placement that offers supervised housing opportunities and supportive services to eligible nonminor dependents, as specified. Existing law excludes THP-Plus Foster Care from the definition of a community care facility.

This bill would include THP-Plus Foster Care within the definition of a community care facility for purposes of the Community Care

Facilities Act. By expanding application of the act, this bill would expand the scope of an existing crime, thus imposing a state-mandated local program. The bill would delete existing separate fingerprinting requirements applicable to THP-Plus Foster Care providers, making those providers subject to the background check information generally applicable to community care facilities.

Existing law determines the county of residence of a minor child, as specified.

This bill would determine the county of residence of a nonminor dependent under the original or resumed dependency jurisdiction or transition jurisdiction of the juvenile court.

Existing law requires the Judicial Council to establish a court-appointed special advocate (CASA) program, pursuant to which volunteer CASAs provide designated services and support to children under the jurisdiction of the juvenile court.

This bill would make nonminor dependents eligible for the CASA program.

Existing law authorizes payment of CalWORKs aid to a nonminor dependent placed in the approved home of a relative, as specified, if the nonminor dependent is involved in certain educational or employment activities.

This bill would authorize the CalWORKs payments described above to be made out of state when the nonminor dependent is placed in the approved home of a relative who resides in another state. Because moneys are continuously appropriated from the General Fund to defray a portion of county costs under the CalWORKs program, by expanding eligibility for CalWORKs, the bill would make an appropriation. In addition, by increasing county duties, the bill would impose a state-mandated local program.

This bill would revise the provisions relating to state-funded and federally funded Kin-GAP payments, and would make Kin-GAP and Adoption Assistance Program payments for nonminor former dependents between 20 and 21 years of age contingent upon appropriations by the Legislature. The bill would expand the definition of a relative for purposes of the federally funded Kin-GAP program. The bill also would revise various definitions applicable to the AFDC-FC program relating to nonminor dependents and transitional housing services. The bill would specify that certain health and education information required to be provided for a foster child would only be provided with respect to a nonminor dependent with his or her written consent.

This bill would extend access to public health nursing services under the statewide child welfare services program, and designated placement services and family reunification services to nonminor dependents, as specified. By increasing duties of county welfare departments, the bill would impose a state-mandated local program.

Existing law requires a court that continues dependency jurisdiction with respect to a nonminor dependent to order development of a planned permanent living arrangement, under a mutual agreement, as defined.

This bill would revise the definition of mutual agreement, by specifying the criteria of these agreements applicable to nonminor dependents, and nonminor former dependents and wards, who are in receipt of Kin-GAP and AFDC-FC payments, respectively. The bill also would make conforming changes to related provisions and definitions.

Existing law provides that the extension of AAP benefits to nonminor or former dependents between 20 and 21 years of age is contingent upon an appropriation by the Legislature.

This bill would delete that contingency. Because funds are continuously appropriated for the placement of hard-to-place adoptive children, this bill would make an appropriation. To the extent that it would increase the duties of county placing agencies, the bill would impose a state mandated local program.

This bill would expand certain provisions relating to proceedings of the juvenile court to include nonminor dependents, and would make related changes.

Existing law requires the social worker or probation officer to give notice of review hearings in specified dependency proceedings to certain individuals, including the child, any known siblings of the child, and the child's caregiver. Under existing law, a child's caregiver may attend the review hearings and submit any relevant written information to the court.

This bill would require the social worker or probation officer to give notice of review hearings and termination of jurisdiction hearings in specified dependency proceedings to a nonminor dependent, any known siblings of the nonminor dependent, and the current caregiver of the nonminor dependent. Additionally, the bill would authorize the caregiver of the nonminor dependent to attend the hearings and to submit relevant written information for filing and distribution to the parties and attorneys. By imposing new duties on social workers and probation officers, this bill would impose a state-mandated local program.

Under existing law, the juvenile court may retain jurisdiction over a dependent child until the dependent child is 21 years of age. Existing law further provides that the juvenile court's jurisdiction includes nonminor dependents. Under existing law, the juvenile court may terminate dependency, delinquency, or transition jurisdiction over a nonminor dependent while the nonminor dependent is between 18 and 21 years of age. The juvenile court retains general jurisdiction over a nonminor dependent for purposes of a petition to modify a dependency court order.

This bill would authorize the dependency court to order adult adoption as the permanent plan for a nonminor dependent, and to terminate its jurisdiction over a nonminor dependent following a final adult adoption. The bill would further authorize court-ordered family reunification services to continue for a nonminor dependent who attains 18 years of age during the review hearing time period until the next 6-month review hearing, if all parties agree that family reunification is in the best interests of the nonminor dependent and that there is a substantial probability that the nonminor dependent will be returned home at or before the next review hearing. This bill would provide that the provision of these services would not affect the nonminor dependant's eligibility for extended foster care benefits. This bill would also make clarifying changes to reflect that the dependency court may retain jurisdiction over a nonminor in long-term foster care or a planned permanent living arrangement as a nonminor dependent.

Existing law governs the placement of children who are or who may be Indian children, as specified. Existing law provides for tribal customary adoption as one placement option for Indian children in dependency proceedings. Additionally, existing law prohibits a dependency court from holding a hearing to terminate parental rights for a nonminor dependent.

This bill would clarify that a dependency court may order tribal customary adoption as the permanent plan for a nonminor dependent who is an Indian child. Additionally, the bill would permit the dependency court to hold a hearing to terminate parental rights for a nonminor dependent who is an Indian child if tribal customary adoption is the permanent plan.

Existing law requires county child welfare departments to determine whether, in specified dependency cases, it is in the best interests of the child or nonminor to have the case referred to the local child support agency for child support services. Existing law specifies that a nonminor

dependent over 19 years of age is not a child for purposes of referral to the local child support agency.

This bill would provide that a minor or nonminor dependent who has a minor child placed in the same facility is not a parent for purposes of referral to the local child support agency for collection or enforcement of child support. The bill would also clarify that these provisions apply in the case of voluntary placements and minor children placed with a minor or nonminor dependent parent.

Existing law imposes parental liability for the cost of the care, support, and maintenance of a child in a county institution or other placement following a juvenile court order removing the child from the home or voluntary placement of the child in out-of-home care by the parent under specified circumstances. Under existing law, the local child support agency may petition the court for an order to show cause to recover those costs, unless the agency determines that it would not be appropriate or cost effective to do so.

This bill would provide that a nonminor dependent who is a custodial or noncustodial parent of a child in a foster care placement, including voluntary foster care placement, is not financially liable for the cost of the care, support, and maintenance of the child.

This bill would authorize the State Department of Social Services to implement the bill by all-county letters or similar instructions, pending the adoption of regulations. The bill would require the department to consult with concerned stakeholders, as specified, in developing the regulations.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51225.3 of the Education Code, as
2 amended by Section 3 of Chapter 621 of the Statutes of 2011, is
3 amended to read:
4 51225.3. (a) A pupil shall complete all of the following while
5 in grades 9 to 12, inclusive, in order to receive a diploma of
6 graduation from high school:
7 (1) At least the following numbers of courses in the subjects
8 specified, each course having a duration of one year, unless
9 otherwise specified:
10 (A) Three courses in English.
11 (B) Two courses in mathematics.
12 (C) Two courses in science, including biological and physical
13 sciences.
14 (D) Three courses in social studies, including United States
15 history and geography; world history, culture, and geography; a
16 one-semester course in American government and civics; and a
17 one-semester course in economics.
18 (E) One course in visual or performing arts, foreign language,
19 or, commencing with the 2012–13 school year, career technical
20 education.
21 (i) For purposes of satisfying the requirement specified in this
22 subparagraph, a course in American Sign Language shall be
23 deemed a course in foreign language.
24 (ii) For purposes of this subparagraph, “a course in career
25 technical education” means a course in a district-operated career
26 technical education program that is aligned to the career technical
27 model curriculum standards and framework adopted by the state
28 board, including courses through a regional occupational center
29 or program operated by a county superintendent of schools or
30 pursuant to a joint powers agreement.
31 (iii) This subparagraph does not require a school or school
32 district that currently does not offer career technical education
33 courses to start new career technical education programs for
34 purposes of this section.

(iv) If a school district or county office of education elects to allow a career technical education course to satisfy the requirement imposed by this subparagraph, the governing board of the school district or county office of education, prior to offering that alternative to pupils, shall notify parents, teachers, pupils, and the public at a regularly scheduled meeting of the governing board of all of the following:

(I) The intent to offer career technical education courses to fulfill the graduation requirement specified in this subparagraph.

(II) The impact that offering career technical education courses, pursuant to this subparagraph, will have on the availability of courses that meet the eligibility requirements for admission to the California State University and the University of California, and whether the career technical education courses to be offered pursuant to this subparagraph are approved to satisfy those eligibility requirements. If a school district elects to allow a career technical education course to satisfy the requirement imposed by this subparagraph, the school district shall comply with subdivision (m) of Section 48980.

(III) The distinction, if any, between the high school graduation requirements of the school district or county office of education, and the eligibility requirements for admission to the California State University and the University of California.

(F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

(2) Other coursework requirements adopted by the governing board of the school district.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for pupils to complete the prescribed course of study that may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, career technical education classes offered in high schools, courses offered by regional occupational centers or programs, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

(c) Notwithstanding any other law, a school district shall exempt a pupil in foster care from all coursework and other requirements

1 adopted by the governing board of the district that are in addition
2 to the statewide coursework requirements specified in this section
3 if the pupil, while he or she is in grade 11 or 12, transfers into the
4 district from another school district or between high schools within
5 the district, unless the district makes a finding that the pupil is
6 reasonably able to complete the additional requirements in time
7 to graduate from high school ~~while he or she remains eligible for~~
8 ~~foster care benefits pursuant to state law by the end of the pupil's~~
9 ~~fourth year of high school.~~ A school district shall notify a pupil in
10 foster care who is granted an exemption pursuant to this
11 subdivision, and, as appropriate, the person holding the right to
12 make educational decisions for the pupil, if any of the requirements
13 that are waived will affect the pupil's ability to gain admission to
14 a postsecondary educational institution and shall provide
15 information about transfer opportunities available through the
16 California Community Colleges.

17 (d) On or before July 1, 2017, the department shall submit a
18 comprehensive report to the appropriate policy committees of the
19 Legislature on the addition of career technical education courses
20 to satisfy the requirement specified in subparagraph (E) of
21 paragraph (1) of subdivision (a), including, but not limited to, the
22 following information:

23 (1) A comparison of the pupil enrollment in career technical
24 education courses, foreign language courses, and visual and
25 performing arts courses for the 2005–06 to 2011–12 school years,
26 inclusive, to the pupil enrollment in career technical education
27 courses, foreign language courses, and visual and performing arts
28 courses for the 2012–13 to 2016–17 school years, inclusive.

29 (2) The reasons, reported by school districts, that pupils give
30 for choosing to enroll in a career technical education course to
31 satisfy the requirement specified in subparagraph (E) of paragraph
32 (1) of subdivision (a).

33 (3) The type and number of career technical education courses
34 that were conducted for the 2005–06 to 2011–12 school years,
35 inclusive, compared to the type and number of career technical
36 education courses that were conducted for the 2012–13 to 2016–17
37 school years, inclusive.

38 (4) The number of career technical education courses that
39 satisfied the subject matter requirements for admission to the
40 University of California or the California State University.

1 (5) The extent to which the career technical education courses
2 chosen by pupils are aligned with the California Career Technical
3 Education Standards, and prepare pupils for employment, advanced
4 training, and postsecondary education.

5 (6) The number of career technical education courses that also
6 satisfy the visual and performing arts requirement, and the number
7 of career technical education courses that also satisfy the foreign
8 language requirement.

9 (7) Annual pupil dropout and graduation rates for the 2011–12
10 to 2014–15 school years, inclusive.

11 (e) For purposes of completing the report described in
12 subdivision (d), the Superintendent may use existing state resources
13 and federal funds. If state or federal funds are not available or
14 sufficient, the Superintendent may apply for and accept grants,
15 and receive donations and other financial support from public or
16 private sources for purposes of this section.

17 (f) For purposes of completing the report described in
18 subdivision (d), the Superintendent may accept support, including,
19 but not limited to, financial and technical support, from high school
20 reform advocates, teachers, chamber organizations, industry
21 representatives, research centers, parents, and pupils.

22 (g) This section shall become inoperative on the earlier of the
23 following two dates:

24 (1) On July 1, immediately following the first fiscal year after
25 the enactment of the act that adds this paragraph in which the
26 number of career technical education courses that, as determined
27 by the department, satisfy the foreign language requirement for
28 admission to the California State University and the University of
29 California is at least twice the number of career technical education
30 courses that meet these admission requirements as of January 1,
31 2012. This section shall be repealed on the following January 1,
32 unless a later enacted statute, that becomes operative on or before
33 that date, deletes or extends the dates on which it becomes
34 inoperative and is repealed. It is the intent of the Legislature that
35 new career technical education courses that satisfy the foreign
36 language requirement for admission to the California State
37 University and the University of California focus on world
38 languages aligned with career preparation, emphasizing real-world
39 application and technical content in related career and technical
40 education courses.

(2) On July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 51225.3 of the Education Code, as added by Section 4 of Chapter 621 of the Statutes of 2011, is amended to read:

51225.3. (a) A pupil shall complete all of the following while in grades 9 to 12, inclusive, in order to receive a diploma of graduation from high school:

(1) At least the following numbers of courses in the subjects specified, each course having a duration of one year, unless otherwise specified:

(A) Three courses in English.

(B) Two courses in mathematics.

(C) Two courses in science, including biological and physical sciences.

(D) Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics; and a one-semester course in economics.

(E) One course in visual or performing arts or foreign language. For purposes of satisfying the requirement specified in this subparagraph, a course in American Sign Language shall be deemed a course in foreign language.

(F) Two courses in physical education, unless the pupil has been exempted pursuant to the provisions of this code.

(2) Other coursework requirements adopted by the governing board of the school district.

(b) The governing board, with the active involvement of parents, administrators, teachers, and pupils, shall adopt alternative means for pupils to complete the prescribed course of study that may include practical demonstration of skills and competencies, supervised work experience or other outside school experience, career technical education classes offered in high schools, courses offered by regional occupational centers or programs, interdisciplinary study, independent study, and credit earned at a postsecondary institution. Requirements for graduation and specified alternative modes for completing the prescribed course of study shall be made available to pupils, parents, and the public.

1 (c) Notwithstanding any other law, a school district shall exempt
2 a pupil in foster care from all coursework and other requirements
3 adopted by the governing board of the district that are in addition
4 to the statewide coursework requirements specified in this section
5 if the pupil, while he or she is in grade 11 or 12, transfers into the
6 district from another school district or between high schools within
7 the district, unless the district makes a finding that the pupil is
8 reasonably able to complete the additional requirements in time
9 to graduate from high school ~~while he or she remains eligible for~~
10 ~~foster care benefits pursuant to state law by the end of the pupil's~~
11 *fourth year of high school*. A school district shall notify a pupil in
12 foster care who is granted an exemption pursuant to this
13 subdivision, and, as appropriate, the person holding the right to
14 make educational decisions for the pupil, if any of the requirements
15 that are waived will affect the pupil's ability to gain admission to
16 a postsecondary educational institution and shall provide
17 information about transfer opportunities available through the
18 California Community Colleges.

19 (d) If a pupil completed a career technical education course that
20 met the requirements of subparagraph (E) of paragraph (1) of
21 subdivision (a) of Section 51225.3, as amended by the act adding
22 this section, prior to the inoperative date of that section, that course
23 shall be deemed to fulfill the requirements of subparagraph (E) of
24 paragraph (1) of subdivision (a) of this section.

25 (e) This section shall become operative upon the date that
26 Section 51225.3, as amended by the act adding this section,
27 becomes inoperative.

28 **SECTION 4.**

29 *SEC. 3.* Section 17552 of the Family Code is amended to read:

30 17552. (a) The State Department of Social Services, in
31 consultation with the Department of Child Support Services, shall
32 promulgate regulations by which the county child welfare
33 department, in any case of separation or desertion of a parent or
34 parents from a child that results in foster care assistance payments
35 under Section 11400 of, or a voluntary placement under Section
36 11401.1 of, or the payments for a minor child placed in the same
37 home as a minor or nonminor dependent parent under Section
38 11401.4 of, the Welfare and Institution Code, or CalWORKs
39 payments to a caretaker relative of a child who comes within the
40 jurisdiction of the juvenile court under Section 300, 601, or 602

1 of the Welfare and Institutions Code, who has been removed from
2 the parental home and placed with the caretaker relative by court
3 order, and who is under the supervision of the county child welfare
4 agency or probation department under Section 11250 of, or
5 Kin-GAP payments under Article 4.5 (commencing with Section
6 11360) or Article 4.7 (commencing with Section 11385) of, or aid
7 under subdivision (c) of Section 10101 of, the Welfare and
8 Institutions Code, shall determine whether it is in the best interests
9 of the child or nonminor to have the case referred to the local child
10 support agency for child support services. If reunification services
11 are not offered or are terminated, the case may be referred to the
12 local child support agency, unless the child's permanent plan is
13 legal guardianship with a relative who is receiving Kin-GAP and
14 the payment of support by the parent may compromise the stability
15 of the current placement with the related guardian, or the permanent
16 plan is transitional foster care for the nonminor under Section
17 11403 of the Welfare and Institutions Code. In making the
18 determination, the department regulations shall provide the factors
19 the county child welfare department shall consider, including:

20 (1) Whether the payment of support by the parent will pose a
21 barrier to the proposed reunification, in that the payment of support
22 will compromise the parent's ability to meet the requirements of
23 the parent's reunification plan.

24 (2) Whether the payment of support by the parent will pose a
25 barrier to the proposed reunification in that the payment of support
26 will compromise the parent's current or future ability to meet the
27 financial needs of the child.

28 (b) The department regulations shall provide that, where the
29 county child welfare department determines that it is not in the
30 best interests of the child to seek a support order against the parent,
31 the county child welfare department shall refrain from referring
32 the case to the local child support agency. The regulations shall
33 define those circumstances in which it is not in the best interest of
34 the child to refer the case to the local child support agency.

35 (c) The department regulations shall provide, where the county
36 child welfare department determines that it is not in the child's
37 best interest to have his or her case referred to the local child
38 support agency, the county child welfare department shall review
39 that determination periodically to coincide with the redetermination
40 of AFDC-FC eligibility under Section 11401.5 of, or the

1 CalWORKs eligibility under Section 11265 of, or Kin-GAP
2 eligibility under Article 4.5 (commencing with Section 11360) or
3 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part
4 3 of Division 9 of, the Welfare and Institutions Code, and shall
5 refer the child's case to the local child support agency upon a
6 determination that, due to a change in the child's circumstances,
7 it is no longer contrary to the child's best interests to have his or
8 her case referred to the local child support agency.

9 (d) The State Department of Social Services shall promulgate
10 all necessary regulations pursuant to this section on or before
11 October 1, 2002.

12 (e) Notwithstanding any other provision of law, a nonminor
13 dependent, as described in subdivision (v) of Section 11400 of the
14 Welfare and Institutions Code, who is over 19 years of age, is not
15 a child for purposes of referral to the local child support agency
16 for collection or enforcement of child support.

17 (f) Notwithstanding any other law, a minor or a nonminor
18 dependent, as defined in subdivision (v) of Section 11400 of the
19 Welfare and Institutions Code, who has a minor child placed in
20 the same licensed or approved facility pursuant to Section 11401.4
21 of the Welfare and Institutions Code is not a parent for purposes
22 of referral to the local child support agency for collection or
23 enforcement of child support.

24 ~~SEC. 2. Section 1502 of the Health and Safety Code is amended~~
25 ~~to read:~~

26 ~~1502. As used in this chapter:~~

27 ~~(a) "Community care facility" means any facility, place, or~~
28 ~~building that is maintained and operated to provide nonmedical~~
29 ~~residential care, day treatment, adult day care, or foster family~~
30 ~~agency services for children, adults, or children and adults,~~
31 ~~including, but not limited to, the physically handicapped, mentally~~
32 ~~impaired, incompetent persons, and abused or neglected children,~~
33 ~~and includes the following:~~

34 ~~(1) "Residential facility" means any family home, group care~~
35 ~~facility, or similar facility determined by the director, for 24-hour~~
36 ~~nonmedical care of persons in need of personal services,~~
37 ~~supervision, or assistance essential for sustaining the activities of~~
38 ~~daily living or for the protection of the individual.~~

39 ~~(2) "Adult day program" means any community-based facility~~
40 ~~or program that provides care to persons 18 years of age or older~~

1 in need of personal services, supervision, or assistance essential
2 for sustaining the activities of daily living or for the protection of
3 these individuals on less than a 24-hour basis.

4 (3) “Therapeutic day services facility” means any facility that
5 provides nonmedical care, counseling, educational or vocational
6 support, or social rehabilitation services on less than a 24-hour
7 basis to persons under 18 years of age who would otherwise be
8 placed in foster care or who are returning to families from foster
9 care. Program standards for these facilities shall be developed by
10 the department, pursuant to Section 1530, in consultation with
11 therapeutic day services and foster care providers.

12 (4) “Foster family agency” means any organization engaged in
13 the recruiting, certifying, and training of, and providing
14 professional support to, foster parents, or in finding homes or other
15 places for placement of children for temporary or permanent care
16 who require that level of care as an alternative to a group home.
17 Private foster family agencies shall be organized and operated on
18 a nonprofit basis.

19 (5) “Foster family home” means any residential facility
20 providing 24-hour care for six or fewer foster children that is
21 owned, leased, or rented and is the residence of the foster parent
22 or parents, including their family, in whose care the foster children
23 have been placed. The placement may be by a public or private
24 child placement agency or by a court order, or by voluntary
25 placement by a parent, parents, or guardian. It also means a foster
26 family home described in Section 1505.2.

27 (6) “Small family home” means any residential facility, in the
28 licensee’s family residence, that provides 24-hour care for six or
29 fewer foster children who have mental disorders or developmental
30 or physical disabilities and who require special care and supervision
31 as a result of their disabilities. A small family home may accept
32 children with special health care needs, pursuant to subdivision
33 (a) of Section 17710 of the Welfare and Institutions Code. In
34 addition to placing children with special health care needs, the
35 department may approve placement of children without special
36 health care needs, up to the licensed capacity.

37 (7) “Social rehabilitation facility” means any residential facility
38 that provides social rehabilitation services for no longer than 18
39 months in a group setting to adults recovering from mental illness
40 who temporarily need assistance, guidance, or counseling. Program

1 components shall be subject to program standards pursuant to
2 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part
3 2 of Division 5 of the Welfare and Institutions Code.

4 (8) “Community treatment facility” means any residential
5 facility that provides mental health treatment services to children
6 in a group setting and that has the capacity to provide secure
7 containment. Program components shall be subject to program
8 standards developed and enforced by the State Department of
9 Mental Health pursuant to Section 4094 of the Welfare and
10 Institutions Code.

11 Nothing in this section shall be construed to prohibit or
12 discourage placement of persons who have mental or physical
13 disabilities into any category of community care facility that meets
14 the needs of the individual placed, if the placement is consistent
15 with the licensing regulations of the department.

16 (9) “Full-service adoption agency” means any licensed entity
17 engaged in the business of providing adoption services, that does
18 all of the following:

19 (A) Assumes care, custody, and control of a child through
20 relinquishment of the child to the agency or involuntary termination
21 of parental rights to the child.

22 (B) Assesses the birth parents, prospective adoptive parents, or
23 child.

24 (C) Places children for adoption.

25 (D) Supervises adoptive placements.

26 Private full-service adoption agencies shall be organized and
27 operated on a nonprofit basis. As a condition of licensure to provide
28 intercountry adoption services, a full-service adoption agency shall
29 be accredited and in good standing according to Part 96 of Title
30 22 of the Code of Federal Regulations, or supervised by an
31 accredited primary provider, or acting as an exempted provider,
32 in compliance with Subpart F (commencing with Section 96.29)
33 of Part 96 of Title 22 of the Code of Federal Regulations.

34 (10) “Noncustodial adoption agency” means any licensed entity
35 engaged in the business of providing adoption services, that does
36 all of the following:

37 (A) Assesses the prospective adoptive parents.

38 (B) Cooperatively matches children freed for adoption, who are
39 under the care, custody, and control of a licensed adoption agency,
40 for adoption, with assessed and approved adoptive applicants.

1 ~~(C) Cooperatively supervises adoptive placements with a~~
2 ~~full-service adoptive agency, but does not disrupt a placement or~~
3 ~~remove a child from a placement.~~

4 ~~Private noneustodial adoption agencies shall be organized and~~
5 ~~operated on a nonprofit basis. As a condition of licensure to provide~~
6 ~~intercountry adoption services, a noneustodial adoption agency~~
7 ~~shall be accredited and in good standing according to Part 96 of~~
8 ~~Title 22 of the Code of Federal Regulations, or supervised by an~~
9 ~~accredited primary provider, or acting as an exempted provider,~~
10 ~~in compliance with Subpart F (commencing with Section 96.29)~~
11 ~~of Part 96 of Title 22 of the Code of Federal Regulations.~~

12 ~~(11) “Transitional shelter care facility” means any group care~~
13 ~~facility that provides for 24-hour nonmedical care of persons in~~
14 ~~need of personal services, supervision, or assistance essential for~~
15 ~~sustaining the activities of daily living or for the protection of the~~
16 ~~individual. Program components shall be subject to program~~
17 ~~standards developed by the State Department of Social Services~~
18 ~~pursuant to Section 1502.3.~~

19 ~~(12) “Transitional housing placement facility” means a~~
20 ~~community care facility licensed by the department pursuant to~~
21 ~~Section 1559.110 to provide transitional housing opportunities to~~
22 ~~persons at least 16 years of age, and not more than 18 years of age~~
23 ~~unless the requirements of Section 11403 and paragraph (1) of~~
24 ~~subdivision (a) of Section 11403.2 of the Welfare and Institutions~~
25 ~~Code are met, who are in out-of-home placement under the~~
26 ~~supervision of the county department of social services or the~~
27 ~~county probation department, and who are participating in an~~
28 ~~independent living program.~~

29 ~~(13) “Transitional Housing Placement Plus Foster Care,”~~
30 ~~“THP-Plus Foster Care” means, on and after January 1, 2012, a~~
31 ~~placement that offers supervised housing opportunities and~~
32 ~~supportive services to eligible nonminor dependents at least 18~~
33 ~~years of age, on and after January 1, 2013, 19 years of age, and on~~
34 ~~and after January 1, 2014, 20 years of age, and not more than 21~~
35 ~~years of age, who are in out-of-home placement under the~~
36 ~~placement and care responsibility of the county welfare department~~
37 ~~or the county probation department, or Indian tribe that entered~~
38 ~~into an agreement pursuant to Section 10553.1, and who are~~
39 ~~described in paragraphs (3) and (4) of subdivision (a) of Section~~
40 ~~11403.2.~~

~~(b) “Department” or “state department” means the State Department of Social Services.~~

~~(c) “Director” means the Director of Social Services.~~

~~SEC. 3. Section 1505 of the Health and Safety Code is amended to read:~~

~~1505. This chapter does not apply to any of the following:~~

~~(a) Any health facility, as defined by Section 1250.~~

~~(b) Any clinic, as defined by Section 1202.~~

~~(c) Any juvenile placement facility approved by the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or any juvenile hall operated by a county.~~

~~(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.~~

~~(e) Any child day care facility, as defined in Section 1596.750.~~

~~(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.~~

~~(g) Any school dormitory or similar facility determined by the department.~~

~~(h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.~~

~~(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.~~

~~(j) Any alcoholism or drug abuse recovery or treatment facility as defined by Section 11834.11.~~

~~(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department. For purposes of this chapter, arrangements for the receiving and care of persons by a relative shall include relatives of the child for the purpose of keeping sibling groups together.~~

~~(l) (1) Any home of a relative caregiver of children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.~~

~~(2) Any home of a nonrelative extended family member, as described in Section 362.7 of the Welfare and Institutions Code, providing care to children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.~~

~~(3) On and after January 1, 2012, any supervised independent living setting for nonminor dependents, as defined in subdivision (w) of Section 11400 of the Welfare and Institutions Code, who are placed by the juvenile court, supervised by the county welfare department, probation department, or Indian tribe that entered into an agreement pursuant to Section 10553.1 of the Welfare and Institutions Code, and whose placement is approved pursuant to subdivision (k) of Section 11400 of the Welfare and Institutions Code.~~

~~(m) Any supported living arrangement for individuals with developmental disabilities, as defined in Section 4689 of the Welfare and Institutions Code.~~

~~(n) (1) Any family home agency, family home, or family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code, that is vendored by the State Department of Developmental Services and that does any of the following:~~

~~(A) As a family home approved by a family home agency, provides 24-hour care for one or two adults with developmental disabilities in the residence of the family home provider or providers and the family home provider or providers' family, and the provider is not licensed by the State Department of Social Services or the State Department of Public Health or certified by a licensee of the State Department of Social Services or the State Department of Public Health.~~

~~(B) As a family teaching home approved by a family home agency, provides 24-hour care for a maximum of three adults with developmental disabilities in independent residences, whether contiguous or attached, and the provider is not licensed by the State Department of Social Services or the State Department of~~

1 Public Health or certified by a licensee of the State Department of
2 Social Services or the State Department of Public Health.

3 (C) As a family home agency, engages in recruiting, approving,
4 and providing support to family homes.

5 (2) No part of this subdivision shall be construed as establishing
6 by implication either a family home agency or family home
7 licensing category.

8 (o) Any facility in which only Indian children who are eligible
9 under the federal Indian Child Welfare Act (Chapter 21
10 (commencing with Section 1901) of Title 25 of the United States
11 Code) are placed and that is one of the following:

12 (1) An extended family member of the Indian child, as defined
13 in Section 1903 of Title 25 of the United States Code.

14 (2) A foster home that is licensed, approved, or specified by the
15 Indian child's tribe pursuant to Section 1915 of Title 25 of the
16 United States Code.

17 (p) (1) (A) Any housing occupied by elderly or disabled
18 persons, or both, that is initially approved and operated under a
19 regulatory agreement pursuant to Section 202 of Public Law 86-372
20 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625
21 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to
22 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that
23 receives mortgage assistance pursuant to Section 221d (3) of Public
24 Law 87-70 (12 U.S.C. Sec. 1715f), where supportive services are
25 made available to residents at their option, as long as the project
26 owner or operator does not contract for or provide the supportive
27 services.

28 (B) Any housing that qualifies for a low-income housing credit
29 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)
30 or that is subject to the requirements for rental dwellings for
31 low-income families pursuant to Section 8 of Public Law 93-383
32 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
33 persons, or both, where supportive services are made available to
34 residents at their option, as long as the project owner or operator
35 does not contract for or provide the supportive services.

36 (2) The project owner or operator to which paragraph (1) applies
37 may coordinate, or help residents gain access to, the supportive
38 services, either directly, or through a service coordinator.

39 (q) Any similar facility determined by the director.

1 ~~SEC. 4. Section 1559.110 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 ~~1559.110. (a) Except as specified in subdivision (e), the State~~
4 ~~Department of Social Services shall license community care~~
5 ~~facilities participating in transitional housing placement programs,~~
6 ~~as designated in Sections 11400 and 16522 of the Welfare and~~
7 ~~Institutions Code.~~

8 ~~(b) Transitional housing placement programs shall provide~~
9 ~~supervised housing services to persons who are at least 16 years~~
10 ~~of age and not more than 18 years of age, except as provided in~~
11 ~~Section 11403 and paragraph (1) of subdivision (a) of Section~~
12 ~~11403.2 of the Welfare and Institutions Code, and who meet all~~
13 ~~of the following conditions:~~

14 ~~(1) Meet the requirements of Section 11401 of the Welfare and~~
15 ~~Institutions Code.~~

16 ~~(2) Are in out-of-home placement under the supervision of the~~
17 ~~county department of social services or the county probation~~
18 ~~department.~~

19 ~~(3) Are participating in, or have successfully completed, an~~
20 ~~independent living program.~~

21 ~~(c) A transitional housing placement program may also serve~~
22 ~~any person less than 21 years of age pursuant to paragraph (2) of~~
23 ~~subdivision (a) of Section 11403.2 of the Welfare and Institutions~~
24 ~~Code.~~

25 ~~(d) Transitional housing placement program services shall~~
26 ~~include any of the following:~~

27 ~~(1) Programs in which one or more participants in the program~~
28 ~~live in an apartment, single-family dwelling, or condominium with~~
29 ~~an adult employee of the provider.~~

30 ~~(2) Programs in which a participant lives independently in an~~
31 ~~apartment, single-family dwelling, or condominium rented or~~
32 ~~leased by the provider located in a building in which one or more~~
33 ~~adult employees of the provider reside and provide supervision.~~

34 ~~(3) Programs in which a participant lives independently in an~~
35 ~~apartment, single-family dwelling, or condominium rented or~~
36 ~~leased by a provider under the supervision of the provider if the~~
37 ~~State Department of Social Services provides approval.~~

38 ~~(e) A transitional housing placement facility that serves only~~
39 ~~eligible youth over 18 years of age who have emancipated from~~
40 ~~the foster care system shall not be subject to subdivision (a),~~

1 provided the facility has been certified to provide transitional
2 housing services by the appropriate county social services or
3 probation department, and has obtained a local fire clearance. No
4 later than June 30, 2002, the department shall establish certification
5 standards and procedures in consultation with the County Welfare
6 Directors Association, the California Youth Connection, the county
7 probation departments, and provider representatives. The
8 certification standards shall include, but not be limited to, a
9 criminal background check of transitional housing providers and
10 staff.

11 (f) (1) The department shall adopt regulations to govern
12 transitional housing placement facilities licensed pursuant to this
13 section.

14 (2) The regulations shall be age-appropriate and recognize that
15 youth who are about to emancipate from the foster care system
16 should be subject to fewer restrictions than those who are younger.
17 At a minimum, the regulations shall provide for both of the
18 following:

19 (A) Require programs that serve youth who are both in and out
20 of the foster care system to have separate rules and program design,
21 as appropriate, for these two groups of youth.

22 (B) Allow youth who have emancipated from the foster care
23 system to have the greatest amount of freedom possible in order
24 to prepare them for self-sufficiency.

25 (g) The Transitional Housing Placement Plus Foster Care
26 program shall serve nonminor dependents, as described in
27 subdivisions (v) and (x) of Section 11400 of the Welfare and
28 Institutions Code.

29 (h) On and after January 1, 2012, with respect to nonminor
30 dependents under 21 years of age, the licensing standards for these
31 legal adults placed in the THP-Plus Foster Care program shall be
32 developed in accordance with Section 1502.7. When developing
33 regulations for the THP-Plus Foster Care programs, the department
34 shall consider the development of an application fee process for
35 the programs, similar to the fee schedule as described in Section
36 1523.1. A licensed THP-Plus Foster Care program shall certify
37 facilities or sites to provide transitional housing services to
38 nonminor dependents pursuant to subdivision (e).

39 *SEC. 4. Section 1502 of the Health and Safety Code is amended*
40 *to read:*

1502. As used in this chapter:

(a) “Community care facility” means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) “Residential facility” means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) “Adult day program” means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) “Therapeutic day services facility” means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) “Foster family agency” means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) “Foster family home” means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary

1 placement by a parent, parents, or guardian. It also means a foster
2 family home described in Section 1505.2.

3 (6) “Small family home” means any residential facility, in the
4 licensee’s family residence, that provides 24-hour care for six or
5 fewer foster children who have mental disorders or developmental
6 or physical disabilities and who require special care and supervision
7 as a result of their disabilities. A small family home may accept
8 children with special health care needs, pursuant to subdivision
9 (a) of Section 17710 of the Welfare and Institutions Code. In
10 addition to placing children with special health care needs, the
11 department may approve placement of children without special
12 health care needs, up to the licensed capacity.

13 (7) “Social rehabilitation facility” means any residential facility
14 that provides social rehabilitation services for no longer than 18
15 months in a group setting to adults recovering from mental illness
16 who temporarily need assistance, guidance, or counseling. Program
17 components shall be subject to program standards pursuant to
18 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part
19 2 of Division 5 of the Welfare and Institutions Code.

20 (8) “Community treatment facility” means any residential
21 facility that provides mental health treatment services to children
22 in a group setting and that has the capacity to provide secure
23 containment. Program components shall be subject to program
24 standards developed and enforced by the State Department of
25 Mental Health pursuant to Section 4094 of the Welfare and
26 Institutions Code.

27 Nothing in this section shall be construed to prohibit or
28 discourage placement of persons who have mental or physical
29 disabilities into any category of community care facility that meets
30 the needs of the individual placed, if the placement is consistent
31 with the licensing regulations of the department.

32 (9) “Full-service adoption agency” means any licensed entity
33 engaged in the business of providing adoption services, that does
34 all of the following:

35 (A) Assumes care, custody, and control of a child through
36 relinquishment of the child to the agency or involuntary termination
37 of parental rights to the child.

38 (B) Assesses the birth parents, prospective adoptive parents, or
39 child.

40 (C) Places children for adoption.

1 (D) Supervises adoptive placements.

2 Private full-service adoption agencies shall be organized and
3 operated on a nonprofit basis. As a condition of licensure to provide
4 intercountry adoption services, a full-service adoption agency shall
5 be accredited and in good standing according to Part 96 of Title
6 22 of the Code of Federal Regulations, or supervised by an
7 accredited primary provider, or acting as an exempted provider,
8 in compliance with Subpart F (commencing with Section 96.29)
9 of Part 96 of Title 22 of the Code of Federal Regulations.

10 (10) "Noncustodial adoption agency" means any licensed entity
11 engaged in the business of providing adoption services, that does
12 all of the following:

13 (A) Assesses the prospective adoptive parents.

14 (B) Cooperatively matches children freed for adoption, who are
15 under the care, custody, and control of a licensed adoption agency,
16 for adoption, with assessed and approved adoptive applicants.

17 (C) Cooperatively supervises adoptive placements with a
18 full-service adoptive agency, but does not disrupt a placement or
19 remove a child from a placement.

20 Private noncustodial adoption agencies shall be organized and
21 operated on a nonprofit basis. As a condition of licensure to provide
22 intercountry adoption services, a noncustodial adoption agency
23 shall be accredited and in good standing according to Part 96 of
24 Title 22 of the Code of Federal Regulations, or supervised by an
25 accredited primary provider, or acting as an exempted provider,
26 in compliance with Subpart F (commencing with Section 96.29)
27 of Part 96 of Title 22 of the Code of Federal Regulations.

28 (11) "Transitional shelter care facility" means any group care
29 facility that provides for 24-hour nonmedical care of persons in
30 need of personal services, supervision, or assistance essential for
31 sustaining the activities of daily living or for the protection of the
32 individual. Program components shall be subject to program
33 standards developed by the State Department of Social Services
34 pursuant to Section 1502.3.

35 (12) "Transitional housing placement provider" means an
36 organization licensed by the department pursuant to Section
37 1559.110 and Section 16522.1 of the Welfare and Institutions Code
38 to provide transitional housing to foster children at least 16 years
39 of age; and not more than 18 years of age, and nonminor
40 dependents, as defined in subdivision (v) of Section 11400 of the

1 Welfare and Institutions Code, to promote their transition to
2 adulthood. A transitional housing placement provider shall be
3 privately operated and organized on a nonprofit basis.

4 (b) “Department” or “state department” means the State
5 Department of Social Services.

6 (c) “Director” means the Director of Social Services.

7 *SEC. 5. Section 1505 of the Health and Safety Code is amended*
8 *to read:*

9 1505. This chapter does not apply to any of the following:

10 (a) Any health facility, as defined by Section 1250.

11 (b) Any clinic, as defined by Section 1202.

12 (c) Any juvenile placement facility approved by the Department
13 of Corrections and Rehabilitation, Division of Juvenile Justice, or
14 any juvenile hall operated by a county.

15 (d) Any place in which a juvenile is judicially placed pursuant
16 to subdivision (a) of Section 727 of the Welfare and Institutions
17 Code.

18 (e) Any child day care facility, as defined in Section 1596.750.

19 (f) Any facility conducted by and for the adherents of any
20 well-recognized church or religious denomination for the purpose
21 of providing facilities for the care or treatment of the sick who
22 depend upon prayer or spiritual means for healing in the practice
23 of the religion of the church or denomination.

24 (g) Any school dormitory or similar facility determined by the
25 department.

26 (h) Any house, institution, hotel, homeless shelter, or other
27 similar place that supplies board and room only, or room only, or
28 board only, provided that no resident thereof requires any element
29 of care as determined by the director.

30 (i) Recovery houses or other similar facilities providing group
31 living arrangements for persons recovering from alcoholism or
32 drug addiction where the facility provides no care or supervision.

33 (j) Any alcoholism or drug abuse recovery or treatment facility
34 as defined by Section 11834.11.

35 (k) Any arrangement for the receiving and care of persons by
36 a relative or any arrangement for the receiving and care of persons
37 from only one family by a close friend of the parent, guardian, or
38 conservator, if the arrangement is not for financial profit and occurs
39 only occasionally and irregularly, as defined by regulations of the
40 department. For purposes of this chapter, arrangements for the

1 receiving and care of persons by a relative shall include relatives
2 of the child for the purpose of keeping sibling groups together.

3 (l) (1) Any home of a relative caregiver of children who are
4 placed by a juvenile court, supervised by the county welfare or
5 probation department, and the placement of whom is approved
6 according to subdivision (d) of Section 309 of the Welfare and
7 Institutions Code.

8 (2) Any home of a nonrelative extended family member, as
9 described in Section 362.7 of the Welfare and Institutions Code,
10 providing care to children who are placed by a juvenile court,
11 supervised by the county welfare or probation department, and the
12 placement of whom is approved according to subdivision (d) of
13 Section 309 of the Welfare and Institutions Code.

14 (3) On and after January 1, 2012, any supervised independent
15 living ~~setting~~ *placement* for nonminor dependents, as defined in
16 subdivision (w) of Section 11400 of the Welfare and Institutions
17 Code, who are placed by the juvenile court, supervised by the
18 county welfare department, probation department, ~~or~~ Indian tribe,
19 *consortium of tribes, or tribal organization* that entered into an
20 agreement pursuant to Section 10553.1 of the Welfare and
21 Institutions Code, and whose placement is approved pursuant to
22 subdivision (k) of Section 11400 of the Welfare and Institutions
23 Code.

24 (4) A Transitional Housing Program-Plus, as defined in
25 subdivision (s) of Section 11400 of the Welfare and Institutions
26 Code, that serves only eligible former foster youth over 18 years
27 of age who have exited from the foster care system on or after their
28 18th birthday, and that has obtained certification from the
29 applicable county ~~welfare department~~ in accordance with
30 subdivision (c) of Section 16522 of the Welfare and Institutions
31 Code.

32 (m) Any supported living arrangement for individuals with
33 developmental disabilities, as defined in Section 4689 of the
34 Welfare and Institutions Code.

35 (n) (1) Any family home agency, family home, or family
36 teaching home as defined in Section 4689.1 of the Welfare and
37 Institutions Code, that is vendored by the State Department of
38 Developmental Services and that does any of the following:

39 (A) As a family home approved by a family home agency,
40 provides 24-hour care for one or two adults with developmental

1 disabilities in the residence of the family home provider or
2 providers and the family home provider or providers' family, and
3 the provider is not licensed by the State Department of Social
4 Services or the State Department of Public Health or certified by
5 a licensee of the State Department of Social Services or the State
6 Department of Public Health.

7 (B) As a family teaching home approved by a family home
8 agency, provides 24-hour care for a maximum of three adults with
9 developmental disabilities in independent residences, whether
10 contiguous or attached, and the provider is not licensed by the
11 State Department of Social Services or the State Department of
12 Public Health or certified by a licensee of the State Department of
13 Social Services or the State Department of Public Health.

14 (C) As a family home agency, engages in recruiting, approving,
15 and providing support to family homes.

16 (2) No part of this subdivision shall be construed as establishing
17 by implication either a family home agency or family home
18 licensing category.

19 (o) Any facility in which only Indian children who are eligible
20 under the federal Indian Child Welfare Act (Chapter 21
21 (commencing with Section 1901) of Title 25 of the United States
22 Code) are placed and that is one of the following:

23 (1) An extended family member of the Indian child, as defined
24 in Section 1903 of Title 25 of the United States Code.

25 (2) A foster home that is licensed, approved, or specified by the
26 Indian child's tribe pursuant to Section 1915 of Title 25 of the
27 United States Code.

28 (p) (1) (A) Any housing occupied by elderly or disabled
29 persons, or both, that is initially approved and operated under a
30 regulatory agreement pursuant to Section 202 of Public Law 86-372
31 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625
32 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to
33 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that
34 receives mortgage assistance pursuant to Section 221d (3) of Public
35 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are
36 made available to residents at their option, as long as the project
37 owner or operator does not contract for or provide the supportive
38 services.

39 (B) Any housing that qualifies for a low-income housing credit
40 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)

1 or that is subject to the requirements for rental dwellings for
2 low-income families pursuant to Section 8 of Public Law 93-383
3 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
4 persons, or both, where supportive services are made available to
5 residents at their option, as long as the project owner or operator
6 does not contract for or provide the supportive services.

7 (2) The project owner or operator to which paragraph (1) applies
8 may coordinate, or help residents gain access to, the supportive
9 services, either directly, or through a service coordinator.

10 (q) Any similar facility determined by the director.

11 *SEC. 6. Section 1559.110 of the Health and Safety Code is*
12 *amended to read:*

13 1559.110. (a) The State Department of Social Services shall
14 license transitional housing placement providers pursuant to this
15 chapter. Prior to licensure, a provider shall obtain certification
16 from the applicable county ~~welfare department~~, in accordance with
17 Section 16522.1 of the Welfare and Institutions Code.

18 (b) Transitional housing placement providers shall provide
19 supervised transitional housing services to foster children who are
20 at least 16 years of age and not more than 18 years of age, or
21 nonminor dependents, as defined in subdivision (v) of Section
22 11400 of the Welfare and Institutions Code, or both.

23 (c) Transitional housing placement providers shall certify that
24 housing units comply with the health and safety standards set forth
25 in paragraph (5) of subdivision (b) of Section 1501. Transitional
26 housing shall include any of the following:

27 (1) Programs in which one or more participants in the program
28 live in an apartment, single-family dwelling, or condominium with
29 an adult employee of the provider, or host family home.

30 (2) Programs in which a participant lives independently in an
31 apartment, single-family dwelling, or condominium rented or
32 leased by the provider located in a building in which one or more
33 adult employees of the provider reside and provide supervision.

34 (3) Programs in which a participant lives independently in an
35 apartment, single-family dwelling, or condominium rented or
36 leased by a provider under the supervision of the provider if the
37 State Department of Social Services provides approval. The
38 housing model described in this paragraph shall be available to
39 minor foster children, if placed prior to October 1, 2012, and to
40 nonminor dependents.

(d) (1) The department shall adopt regulations to govern transitional housing placement providers licensed pursuant to this section.

(2) The regulations shall be age-appropriate and recognize that nonminor dependents who are about to exit from the foster care system should be subject to fewer restrictions than those who are foster children. At a minimum, the regulations shall provide for both of the following:

(A) Require programs that serve both foster children and nonminor dependents to have separate rules and program design, as appropriate, for these two groups of youth.

(B) Allow nonminor dependents to have the greatest amount of freedom possible in order to prepare them for their transition to adulthood, in accordance with paragraph (1) of subdivision (b) of Section 1502.7.

(3) *Maintain a program staffing ratio of case manager to client of no more than 1 to 12.*

(4) *For purposes of the certification of a program that serves nonminor dependents in accordance with subdivision (c) of Section 16522.1 of the Welfare and Institutions Code, "applicable county" means the county where the administrative office or subadministrative office of a transitional housing placement provider is located, or a primary placing county.*

~~SEC. 5.~~

SEC. 7. Section 11170 of the Penal Code is amended to read:

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse and severe neglect submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be not substantiated. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index (CACI) pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the CACI accurately reflects the report it receives from the submitting agency.

1 (3) Only information from reports that are reported as
2 substantiated shall be filed pursuant to paragraph (1), and all other
3 determinations shall be removed from the central list.

4 (b) The provisions of subdivision (c) of Section 11169 apply to
5 any information provided pursuant to this subdivision.

6 (1) The Department of Justice shall immediately notify an
7 agency that submits a report pursuant to Section 11169, or a
8 prosecutor who requests notification, of any information maintained
9 pursuant to subdivision (a) that is relevant to the known or
10 suspected instance of child abuse or severe neglect reported by the
11 agency. The agency shall make that information available to the
12 reporting health care practitioner who is treating a person reported
13 as a possible victim of known or suspected child abuse. The agency
14 shall make that information available to the reporting child
15 custodian, Child Abuse Prevention and Treatment Act guardian
16 ad litem appointed under Rule 5.662 of the California Rules of
17 Court, or counsel appointed under Section 317 or 318 of the
18 Welfare and Institutions Code, or the appropriate licensing agency,
19 if he or she or the licensing agency is handling or investigating a
20 case of known or suspected child abuse or severe neglect.

21 (2) When a report is made pursuant to subdivision (a) of Section
22 11166, or Section 11166.05, the investigating agency, upon
23 completion of the investigation or after there has been a final
24 disposition in the matter, shall inform the person required or
25 authorized to report of the results of the investigation and of any
26 action the agency is taking with regard to the child or family.

27 (3) The Department of Justice shall make relevant information
28 from the CACI available to a law enforcement agency, county
29 welfare department, or county probation department that is
30 conducting a child abuse investigation.

31 (4) The department shall make available to the State Department
32 of Social Services, or to any county licensing agency that has
33 contracted with the state for the performance of licensing duties,
34 or to a tribal court or tribal child welfare agency of a ~~tribe or tribe~~,
35 consortium of tribes, *or tribal organization* that has entered into
36 an agreement with the state pursuant to Section 10553.1 of the
37 Welfare and Institutions Code, information regarding a known or
38 suspected child abuser maintained pursuant to this section and
39 subdivision (a) of Section 11169 concerning any person who is an
40 applicant for licensure or approval, or any adult who resides or is

1 employed in the home of an applicant for licensure or approval,
2 or who is an applicant for employment in a position having
3 supervisory or disciplinary power over a child or children, or who
4 will provide 24-hour care for a child or children in a residential
5 home or facility, pursuant to Section 1522.1 or 1596.877 of the
6 Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of
7 the Family Code, or Section 11403.2 of the Welfare and Institutions
8 Code.

9 (5) The Department of Justice shall make available to a Court
10 Appointed Special Advocate program that is conducting a
11 background investigation of an applicant seeking employment
12 with the program or a volunteer position as a Court Appointed
13 Special Advocate, as defined in Section 101 of the Welfare and
14 Institutions Code, information contained in the index regarding
15 known or suspected child abuse by the applicant.

16 (6) For purposes of child death review, the Department of Justice
17 shall make available to the chairperson, or the chairperson's
18 designee, for each county child death review team, or the State
19 Child Death Review Council, information for investigative
20 purposes only that is maintained in the CACI pursuant to
21 subdivision (a) relating to the death of one or more children and
22 any prior child abuse or neglect investigation reports maintained
23 involving the same victims, siblings, or suspects. Local child death
24 review teams may share any relevant information regarding case
25 reviews involving child death with other child death review teams.

26 (7) The department shall make available to investigative
27 agencies or probation officers, or court investigators acting
28 pursuant to Section 1513 of the Probate Code, responsible for
29 placing children or assessing the possible placement of children
30 pursuant to Article 6 (commencing with Section 300), Article 7
31 (commencing with Section 305), Article 10 (commencing with
32 Section 360), or Article 14 (commencing with Section 601) of
33 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
34 Code, Article 2 (commencing with Section 1510) or Article 3
35 (commencing with Section 1540) of Chapter 1 of Part 2 of Division
36 4 of the Probate Code, information regarding a known or suspected
37 child abuser contained in the index concerning any adult residing
38 in the home where the child may be placed, when this information
39 is requested for purposes of ensuring that the placement is in the
40 best interest of the child. Upon receipt of relevant information

1 concerning child abuse or neglect investigation reports contained
2 in the CACI from the Department of Justice pursuant to this
3 subdivision, the agency or court investigator shall notify, in writing,
4 the person listed in the CACI that he or she is in the index. The
5 notification shall include the name of the reporting agency and the
6 date of the report.

7 (8) The Department of Justice shall make available to a
8 government agency conducting a background investigation
9 pursuant to Section 1031 of the Government Code of an applicant
10 seeking employment as a peace officer, as defined in Section 830,
11 information regarding a known or suspected child abuser
12 maintained pursuant to this section concerning the applicant.

13 (9) The Department of Justice shall make available to a county
14 child welfare agency or delegated county adoption agency, as
15 defined in Section 8515 of the Family Code, conducting a
16 background investigation, or a government agency conducting a
17 background investigation on behalf of one of those agencies,
18 information regarding a known or suspected child abuser
19 maintained pursuant to this section and subdivision (a) of Section
20 11169 concerning any applicant seeking employment or volunteer
21 status with the agency who, in the course of his or her employment
22 or volunteer work, will have direct contact with children who are
23 alleged to have been, are at risk of, or have suffered, abuse or
24 neglect.

25 (10) (A) Persons or agencies, as specified in subdivision (b),
26 if investigating a case of known or suspected child abuse or neglect,
27 or the State Department of Social Services or any county licensing
28 agency pursuant to paragraph (4), or a Court Appointed Special
29 Advocate (CASA) program conducting a background investigation
30 for employment or volunteer candidates pursuant to paragraph (5),
31 or an investigative agency, probation officer, or court investigator
32 responsible for placing children or assessing the possible placement
33 of children pursuant to paragraph (7), or a government agency
34 conducting a background investigation of an applicant seeking
35 employment as a peace officer pursuant to paragraph (8), or a
36 county child welfare agency or delegated county adoption agency
37 conducting a background investigation of an applicant seeking
38 employment or volunteer status who, in the course of his or her
39 employment or volunteer work, will have direct contact with
40 children who are alleged to have been, are at risk of, or have

1 suffered, abuse or neglect, pursuant to paragraph (9), to whom
2 disclosure of any information maintained pursuant to subdivision
3 (a) is authorized, are responsible for obtaining the original
4 investigative report from the reporting agency, and for drawing
5 independent conclusions regarding the quality of the evidence
6 disclosed, and its sufficiency for making decisions regarding
7 investigation, prosecution, licensing, placement of a child,
8 employment or volunteer positions with a CASA program, or
9 employment as a peace officer.

10 (B) If CACI information is requested by an agency for the
11 temporary placement of a child in an emergency situation pursuant
12 to Article 7 (commencing with Section 305) of Chapter 2 of Part
13 1 of Division 2 of the Welfare and Institutions Code, the
14 department is exempt from the requirements of Section 1798.18
15 of the Civil Code if compliance would cause a delay in providing
16 an expedited response to the agency's inquiry and if further delay
17 in placement may be detrimental to the child.

18 (11) (A) Whenever information contained in the Department
19 of Justice files is furnished as the result of an application for
20 employment or licensing or volunteer status pursuant to paragraph
21 (4), (5), (8), or (9), the Department of Justice may charge the person
22 or entity making the request a fee. The fee shall not exceed the
23 reasonable costs to the department of providing the information.
24 The only increase shall be at a rate not to exceed the legislatively
25 approved cost-of-living adjustment for the department. In no case
26 shall the fee exceed fifteen dollars (\$15).

27 (B) All moneys received by the department pursuant to this
28 section to process trustline applications for purposes of Chapter
29 3.35 (commencing with Section 1596.60) of Division 2 of the
30 Health and Safety Code shall be deposited in a special account in
31 the General Fund that is hereby established and named the
32 Department of Justice Child Abuse Fund. Moneys in the fund shall
33 be available, upon appropriation by the Legislature, for expenditure
34 by the department to offset the costs incurred to process trustline
35 automated child abuse or neglect system checks pursuant to this
36 section.

37 (C) All moneys, other than those described in subparagraph (B),
38 received by the department pursuant to this paragraph shall be
39 deposited in a special account in the General Fund which is hereby
40 created and named the Department of Justice Sexual Habitual

Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the California DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).

(c) (1) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the CACI that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

(2) If information is requested by an agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to subdivision (a) to out-of-state law enforcement agencies conducting investigations of known or

1 suspected child abuse or neglect only when an agency makes the
2 request for information in writing and on official letterhead, or as
3 designated by the department, identifying the suspected abuser or
4 victim by name and date of birth or approximate age. The request
5 shall be signed by the department supervisor of the requesting law
6 enforcement agency. The written requests shall cite the out-of-state
7 statute or interstate compact provision that requires that the
8 information contained within these reports shall be disclosed only
9 to law enforcement, prosecutorial entities, or multidisciplinary
10 investigative teams, and shall cite the safeguards in place to prevent
11 unlawful disclosure of any confidential information provided by
12 the requesting state or the applicable interstate compact provision.

13 (e) (1) The department shall make available to an out-of-state
14 agency, for purposes of approving a prospective foster or adoptive
15 parent in compliance with the Adam Walsh Child Protection and
16 Safety Act of 2006 (Public Law 109-248), information regarding
17 a known or suspected child abuser maintained pursuant to
18 subdivision (a) concerning the prospective foster or adoptive
19 parent, and any other adult living in the home of the prospective
20 foster or adoptive parent. The department shall make that
21 information available only when the out-of-state agency makes
22 the request indicating that continual compliance will be maintained
23 with the requirement in paragraph (20) of subsection (a) of Section
24 671 of Title 42 of the United States Code that requires the state to
25 have in place safeguards to prevent the unauthorized disclosure of
26 information in any child abuse and neglect registry maintained by
27 the state and prevent the information from being used for a purpose
28 other than the conducting of background checks in foster or
29 adoption placement cases.

30 (2) With respect to any information provided by the department
31 in response to the out-of-state agency's request, the out-of-state
32 agency is responsible for obtaining the original investigative report
33 from the reporting agency, and for drawing independent
34 conclusions regarding the quality of the evidence disclosed and
35 its sufficiency for making decisions regarding the approval of
36 prospective foster or adoptive parents.

37 (3) (A) Whenever information contained in the index is
38 furnished pursuant to this subdivision, the department shall charge
39 the out-of-state agency making the request a fee. The fee shall not
40 exceed the reasonable costs to the department of providing the

1 information. The only increase shall be at a rate not to exceed the
2 legislatively approved cost-of-living adjustment for the department.
3 In no case shall the fee exceed fifteen dollars (\$15).

4 (B) All moneys received by the department pursuant to this
5 subdivision shall be deposited in the Department of Justice Child
6 Abuse Fund, established under subparagraph (B) of paragraph (11)
7 of subdivision (b). Moneys in the fund shall be available, upon
8 appropriation by the Legislature, for expenditure by the department
9 to offset the costs incurred to process requests for information
10 pursuant to this subdivision.

11 (f) (1) Any person may determine if he or she is listed in the
12 CACI by making a request in writing to the Department of Justice.
13 The request shall be notarized and include the person's name,
14 address, date of birth, and either a social security number or a
15 California identification number. Upon receipt of a notarized
16 request, the Department of Justice shall make available to the
17 requesting person information identifying the date of the report
18 and the submitting agency. The requesting person is responsible
19 for obtaining the investigative report from the submitting agency
20 pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

21 (2) No person or agency shall require or request another person
22 to furnish a copy of a record concerning himself or herself, or
23 notification that a record concerning himself or herself exists or
24 does not exist, pursuant to paragraph (1).

25 (g) If a person is listed in the CACI only as a victim of child
26 abuse or neglect, and that person is 18 years of age or older, that
27 person may have his or her name removed from the index by
28 making a written request to the Department of Justice. The request
29 shall be notarized and include the person's name, address, social
30 security number, and date of birth.

31 ~~SEC. 6.~~

32 *SEC. 8.* Section 17.1 of the Welfare and Institutions Code is
33 amended to read:

34 17.1. Unless otherwise provided under the provisions of this
35 code, to the extent not in conflict with federal law, the residence
36 of a minor person, or a nonminor dependent, as described in
37 subdivision (v) of Section 11400, shall be determined by the
38 following rules:

39 (a) The residence of the parent with whom a child maintains
40 his or her place of abode or the residence of any individual who

1 has been appointed legal guardian or the individual who has been
2 given the care or custody by a court of competent jurisdiction,
3 determines the residence of the child.

4 (b) Wherever in this section it is provided that the residence of
5 a child is determined by the residence of the person who has
6 custody, “custody” means the legal right to custody of the child
7 unless that right is held jointly by two or more persons, in which
8 case “custody” means the physical custody of the child by one of
9 the persons sharing the right to custody.

10 (c) The residence of a foundling shall be deemed to be that of
11 the county in which the child is found.

12 (d) If the residence of the child is not determined under
13 subdivision (a), (b), (c), or (e), the county in which the child is
14 living shall be deemed the county of residence, if and when the
15 child has had a physical presence in the county for one year.

16 (e) If the child has been declared permanently free from the
17 custody and control of his or her parents, his or her residence is
18 the county in which the court issuing the order is situated.

19 (f) If a nonminor dependent under the dependency jurisdiction
20 or transition jurisdiction of the juvenile court is placed in a planned
21 permanent living arrangement, as described in subdivision (i) of
22 Section 366.3, the county in which the nonminor dependent is
23 living may be deemed the county of residence, if and when the
24 nonminor dependent has had a continuous physical presence in
25 the county for one year as a nonminor dependent and the nonminor
26 dependent expressed his or her intent to remain in that county.

27 (g) If a nonminor dependent’s dependency jurisdiction has been
28 resumed, or transition jurisdiction assumed or resumed by the
29 juvenile court that retained general jurisdiction pursuant to
30 subdivision (b) of Section 303, as a result of the filing of a petition
31 pursuant to subdivision (e) of Section 388, following the granting
32 of the petition, the county in which the nonminor dependent is
33 living at the time the petition was filed may be deemed the county
34 of residence, if and when the nonminor dependent establishes that
35 he or she has had a continuous physical presence in the county for
36 one year and has expressed his or her intent to remain in that
37 county. The period of continuous physical presence in the county
38 shall include any period of continuous residence in the county
39 immediately prior to the filing of the petition.

~~SEC. 7.~~

SEC. 9. Section 101 of the Welfare and Institutions Code is amended to read:

101. As used in this chapter, the following definitions shall apply:

(a) “Adult” means a person 18 years of age or older.

(b) “Child or minor” means a person under 18 years of age.

(c) “CASA” means a Court-Appointed Special Advocate. “CASA” also refers to a Court Designated Child Advocate in programs which have utilized that title. A CASA has the duties and responsibilities described in this chapter and shall be trained by and function under the auspices of a Court Appointed Special Advocate program as set forth in this chapter.

(d) “Court” means the superior court, including the juvenile court.

(e) “Dependent” means a child described in Section 300 of the Welfare and Institutions Code.

(f) “Nonminor dependent” means a foster child as described in subdivision (v) of Section 11400.

~~SEC. 8.~~

SEC. 10. Section 102 of the Welfare and Institutions Code is amended to read:

102. (a) Each CASA program shall, if feasible, be staffed by a minimum of one paid administrator. The staff shall be directly accountable to the presiding juvenile court judge and the CASA program board of directors, as applicable.

(b) The program shall provide for volunteers to serve as CASAs. A CASA may be appointed in juvenile dependency proceedings under Section 300, including proceedings involving a nonminor dependent.

(c) Each CASA shall serve at the pleasure of the court having jurisdiction over the proceedings in which a CASA has been appointed and that appointment may continue after the child attains his or her age of majority, with the consent of the nonminor dependent. A CASA shall do all of the following:

(1) Provide independent, factual information to the court regarding the cases to which he or she is appointed.

(2) Represent the best interests of the children involved, and consider the best interests of the family, in the cases to which he or she is appointed.

(3) At the request of the judge, monitor cases to which he or she has been appointed to assure that the court's orders have been fulfilled.

(d) The Judicial Council, through its rules and regulations, shall require an initial and ongoing training program consistent with this chapter to all persons acting as a CASA, including, but not limited to, each of the following:

(1) Dynamics of child abuse and neglect.

(2) Court structure, including juvenile court laws regarding dependency.

(3) Social service systems.

(4) Child development.

(5) Interviewing techniques.

(6) Report writing.

(7) Roles and responsibilities of a CASA.

(8) Rules of evidence and discovery procedures.

(9) Problems associated with verifying reports.

(e) The Judicial Council, through its CASA Advisory Committee, shall adopt guidelines for the screening of CASA volunteers, which shall include personal interviews, reference checks, checks for records of sex offenses and other criminal records, information from the Department of Motor Vehicles, and other information as the Judicial Council deems appropriate.

~~SEC. 9.~~

SEC. 11. Section 107 of the Welfare and Institutions Code is amended to read:

107. (a) Except as provided in subdivision (b), upon presentation of the order of his or her appointment by the CASA, and upon specific court order and consistent with the rules of evidence, any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the CASA to inspect and copy any records relating to the child involved in the case of appointment without the consent of the child or parents.

(b) Subdivision (a) does not apply to the records of or pertaining to a nonminor dependent. The CASA may have access to those records only with the explicit written and informed consent of the nonminor dependent.

1 ~~SEC. 10.~~

2 ~~SEC. 12.~~ Section 295 of the Welfare and Institutions Code is
3 amended to read:

4 295. The social worker or probation officer shall give notice
5 of review hearings held pursuant to ~~Section~~ *Sections 366.3 and*
6 *366.31* and for termination of jurisdiction hearings held pursuant
7 to Section 391 in the following manner:

8 (a) Notice of the hearing shall be given to the following persons:

9 (1) The mother.

10 (2) The presumed father.

11 (3) The legal guardian or guardians.

12 (4) The child, if the child is 10 years of age or older, or a
13 nonminor dependent.

14 (5) Any known sibling of the child or nonminor dependent who
15 is the subject of the hearing if that sibling either is the subject of
16 a dependency proceeding or has been adjudged to be a dependent
17 child of the juvenile court. If the sibling is 10 years of age or older,
18 the sibling, the sibling's caregiver, and the sibling's attorney. If
19 the sibling is under 10 years of age, the sibling's caregiver and the
20 sibling's attorney. However, notice is not required to be given to
21 any sibling whose matter is calendared in the same court on the
22 same day.

23 (6) The current caregiver of the child, including foster parents,
24 relative caregivers, preadoptive parents, nonrelative extended
25 family members, community care facility, or foster family agency
26 having physical custody of the child if a child is removed from the
27 physical custody of the parents or legal guardian. The person
28 notified may attend all hearings and may submit any information
29 he or she deems relevant to the court in writing.

30 (7) The current caregiver of a nonminor dependent, as described
31 in subdivision (v) of Section 11400. The person notified may attend
32 all hearings and may submit for filing an original and eight copies
33 of written information he or she deems relevant to the court. The
34 court clerk shall provide the current parties and attorneys of record
35 with a copy of the written information immediately upon receipt
36 and complete, file, and distribute a proof of service.

37 (8) The attorney of record if that attorney of record was not
38 present at the time that the hearing was set by the court.

39 (9) The alleged father or fathers, but only if the recommendation
40 is to set a new hearing pursuant to Section 366.26.

(b) No notice shall be required for a parent whose parental rights have been terminated or for the parent of a nonminor dependent, as described in subdivision (v) of Section 11400, *unless the parent is receiving court-ordered family reunification services pursuant to Section 361.6.*

(c) The notice of the review hearing shall be served no earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice of the review hearing shall contain a statement regarding the nature of the hearing to be held, any recommended change in the custody or status of the child, and any recommendation that the court set a new hearing pursuant to Section 366.26 in order to select a more permanent plan.

(e) Service of notice shall be by first-class mail addressed to the last known address of the person to be provided notice. In the case of an Indian child, notice shall be by registered mail, return receipt requested.

(f) If the child is ordered into a permanent plan of legal guardianship, and subsequently a petition to terminate or modify the guardianship is filed, the probation officer or social worker shall serve notice of the petition not less than 15 court days prior to the hearing on all persons listed in subdivision (a) and on the court that established legal guardianship if it is in another county.

(g) If the social worker or probation officer knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

~~SEC. 11.~~

SEC. 13. Section 303 of the Welfare and Institutions Code is amended to read:

303. (a) The court may retain jurisdiction over any person who is found to be a ward or a dependent child of the juvenile court until the ward or dependent child attains the age of 21 years.

(b) On and after January 1, 2012, the court shall have within its jurisdiction any nonminor dependent, as defined in subdivision (v) of Section 11400. The court may terminate its dependency, delinquency, or transition jurisdiction over the nonminor dependent between the time the nonminor reaches the age of majority and 21 years of age. If the court terminates dependency, delinquency, or transition jurisdiction, the nonminor dependent shall remain under the general jurisdiction of the court in order to allow for a petition under subdivision (e) of Section 388.

1 (c) On and after January 1, 2012, a nonminor who has not yet
2 attained 21 years of age and who exited foster care at or after the
3 age of majority, may petition the court pursuant to subdivision (e)
4 of Section 388 to resume dependency jurisdiction over himself or
5 herself or to assume transition jurisdiction over himself or herself
6 pursuant to Section 450.

7 (d) (1) Nothing in this code, including, but not limited to,
8 Sections 340, 366.27, and 369.5, shall be construed to provide
9 legal custody of a person who has attained 18 years of age to the
10 county welfare or probation department or to otherwise abrogate
11 any other rights that a person who has attained 18 years of age
12 may have as an adult under California law. A nonminor dependent
13 shall retain all of his or her legal decisionmaking authority as an
14 adult. The nonminor shall enter into a mutual agreement for
15 placement, as described in subdivision (u) of Section 11400, unless
16 the nonminor dependent is incapable of making an informed
17 agreement, or a voluntary reentry agreement, as described in
18 subdivision (z) of Section 11400, for placement and care in which
19 the nonminor consents to placement and care in a setting supervised
20 by, and under the responsibility of, the county child welfare
21 services department, the county probation department, or Indian
22 tribe, *tribal organization*, or *consortium of tribes* that entered into
23 an agreement pursuant to Section 10553.1.

24 (2) A nonminor dependent who remains under delinquency
25 jurisdiction in order to complete his or her rehabilitative goals and
26 is under a foster care placement order is not required to complete
27 the mutual agreement as described in subdivision (u) of Section
28 11400. His or her adult decisionmaking authority may be limited
29 by and subject to the care, supervision, custody, conduct, and
30 maintenance orders as described in Section 727.

31 (e) Unless otherwise specified, the rights of a dependent child
32 and the responsibilities of the county welfare or probation
33 department, or tribe, and other entities, toward the child and family,
34 shall also apply to nonminor dependents.

35 ~~SEC. 12.~~

36 *SEC. 14.* Section 317 of the Welfare and Institutions Code is
37 amended to read:

38 317. (a) (1) When it appears to the court that a parent or
39 guardian of the child desires counsel but is presently financially

1 unable to afford and cannot for that reason employ counsel, the
2 court may appoint counsel as provided in this section.

3 (2) When it appears to the court that a parent or Indian custodian
4 in an Indian child custody proceeding desires counsel but is
5 presently unable to afford and cannot for that reason employ
6 counsel, the provisions of subsection (b) of Section 1912 of the
7 federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.)
8 and Section 23.13 of Title 25 of the Code of Federal Regulations
9 are applicable.

10 (b) When it appears to the court that a parent or guardian of the
11 child is presently financially unable to afford and cannot for that
12 reason employ counsel, and the child has been placed in
13 out-of-home care, or the petitioning agency is recommending that
14 the child be placed in out-of-home care, the court shall appoint
15 counsel for the parent or guardian, unless the court finds that the
16 parent or guardian has made a knowing and intelligent waiver of
17 counsel as provided in this section.

18 (c) If a child or nonminor dependent is not represented by
19 counsel, the court shall appoint counsel for the child or nonminor
20 dependent, unless the court finds that the child or nonminor
21 dependent would not benefit from the appointment of counsel. The
22 court shall state on the record its reasons for that finding. A primary
23 responsibility of counsel appointed to represent a child or nonminor
24 dependent pursuant to this section shall be to advocate for the
25 protection, safety, and physical and emotional well-being of the
26 child or nonminor dependent. Counsel may be a district attorney,
27 public defender, or other member of the bar, provided that he or
28 she does not represent another party or county agency whose
29 interests conflict with the child's or nonminor dependent's interests.
30 The fact that the district attorney represents the child or nonminor
31 dependent in a proceeding pursuant to Section 300 as well as
32 conducts a criminal investigation or files a criminal complaint or
33 information arising from the same or reasonably related set of facts
34 as the proceeding pursuant to Section 300 is not in and of itself a
35 conflict of interest. The court may fix the compensation for the
36 services of appointed counsel. The appointed counsel shall have
37 a caseload and training that ensures adequate representation of the
38 child or nonminor dependent. The Judicial Council shall
39 promulgate rules of court that establish caseload standards, training
40 requirements, and guidelines for appointed counsel for children

1 and shall adopt rules as required by Section 326.5 no later than
2 July 1, 2001.

3 (d) Counsel shall represent the parent, guardian, child, or
4 nonminor dependent at the detention hearing and at all subsequent
5 proceedings before the juvenile court. Counsel shall continue to
6 represent the parent, guardian, child, or nonminor dependent unless
7 relieved by the court upon the substitution of other counsel or for
8 cause. The representation shall include representing the parent,
9 guardian, or the child in termination proceedings and in those
10 proceedings relating to the institution or setting aside of a legal
11 guardianship. On and after January 1, 2012, in the case of a
12 nonminor dependent, as described in subdivision (v) of Section
13 11400, no representation by counsel shall be provided for a parent,
14 unless the parent is receiving court-ordered family reunification
15 services.

16 (e) (1) Counsel shall be charged in general with the
17 representation of the child's interests. To that end, counsel shall
18 make or cause to have made any further investigations that he or
19 she deems in good faith to be reasonably necessary to ascertain
20 the facts, including the interviewing of witnesses, and shall
21 examine and cross-examine witnesses in both the adjudicatory and
22 dispositional hearings. Counsel may also introduce and examine
23 his or her own witnesses, make recommendations to the court
24 concerning the child's welfare, and participate further in the
25 proceedings to the degree necessary to adequately represent the
26 child. When counsel is appointed to represent a nonminor
27 dependent, counsel is charged with representing the wishes of the
28 nonminor dependent *except when advocating for those wishes*
29 *conflicts with the protection or safety of the nonminor dependent.*
30 If the court finds that a nonminor dependent is not competent to
31 direct counsel, the court shall appoint a guardian ad litem for the
32 nonminor dependent.

33 (2) If the child is four years of age or older, counsel shall
34 interview the child to determine the child's wishes and assess the
35 child's well-being, and shall advise the court of the child's wishes.
36 Counsel shall not advocate for the return of the child if, to the best
37 of his or her knowledge, return of the child conflicts with the
38 protection and safety of the child.

39 (3) Counsel shall investigate the interests of the child beyond
40 the scope of the juvenile proceeding, and report to the court other

1 interests of the child that may need to be protected by the institution
2 of other administrative or judicial proceedings. Counsel
3 representing a child in a dependency proceeding is not required to
4 assume the responsibilities of a social worker, and is not expected
5 to provide nonlegal services to the child.

6 (4) Counsel for the child and counsel's agent may, but are not
7 required to, disclose to an individual who is being assessed for the
8 possibility of placement pursuant to Section 361.3 the fact that the
9 child is in custody, the alleged reasons that the child is in custody,
10 and the projected likely date for the child's return home, placement
11 for adoption, or legal guardianship. Nothing in this paragraph shall
12 be construed to prohibit counsel from making other disclosures
13 pursuant to this subdivision, as appropriate.

14 (5) Nothing in this subdivision shall be construed to permit
15 counsel to violate a child's attorney-client privilege.

16 (6) The changes made to this subdivision during the 2011–12
17 Regular Session of the Legislature by the act adding paragraphs
18 (4) and (5) are declaratory of existing law.

19 (7) The court shall take whatever appropriate action is necessary
20 to fully protect the interests of the child.

21 (f) Either the child or counsel for the child, with the informed
22 consent of the child if the child is found by the court to be of
23 sufficient age and maturity to consent, which shall be presumed,
24 subject to rebuttal by clear and convincing evidence, if the child
25 is over 12 years of age, may invoke the psychotherapist-client
26 privilege, physician-patient privilege, and clergyman-penitent
27 privilege. If the child invokes the privilege, counsel may not waive
28 it, but if counsel invokes the privilege, the child may waive it.
29 Counsel shall be the holder of these privileges if the child is found
30 by the court not to be of sufficient age and maturity to consent.
31 For the sole purpose of fulfilling his or her obligation to provide
32 legal representation of the child, counsel shall have access to all
33 records with regard to the child maintained by a health care facility,
34 as defined in Section 1545 of the Penal Code, health care providers,
35 as defined in Section 6146 of the Business and Professions Code,
36 a physician and surgeon or other health practitioner, as defined in
37 former Section 11165.8 of the Penal Code, as that section read on
38 January 1, 2000, or a child care custodian, as defined in former
39 Section 11165.7 of the Penal Code, as that section read on January
40 1, 2000. Notwithstanding any other law, counsel shall be given

1 access to all records relevant to the case that are maintained by
2 state or local public agencies. All information requested from a
3 child protective agency regarding a child who is in protective
4 custody, or from a child's guardian ad litem, shall be provided to
5 the child's counsel within 30 days of the request.

6 (g) In a county of the third class, if counsel is to be provided to
7 a child at the county's expense other than by counsel for the
8 agency, the court shall first utilize the services of the public
9 defender prior to appointing private counsel. Nothing in this
10 subdivision shall be construed to require the appointment of the
11 public defender in any case in which the public defender has a
12 conflict of interest. In the interest of justice, a court may depart
13 from that portion of the procedure requiring appointment of the
14 public defender after making a finding of good cause and stating
15 the reasons therefor on the record.

16 (h) In a county of the third class, if counsel is to be appointed
17 to provide legal counsel for a parent or guardian at the county's
18 expense, the court shall first utilize the services of the alternate
19 public defender prior to appointing private counsel. Nothing in
20 this subdivision shall be construed to require the appointment of
21 the alternate public defender in any case in which the public
22 defender has a conflict of interest. In the interest of justice, a court
23 may depart from that portion of the procedure requiring
24 appointment of the alternate public defender after making a finding
25 of good cause and stating the reasons therefor on the record.

26 ~~SEC. 13.—Section 361 of the Welfare and Institutions Code is~~
27 ~~amended to read:~~

28 ~~361. (a) In all cases in which a minor is adjudged a dependent~~
29 ~~child of the court on the ground that the minor is a person described~~
30 ~~by Section 300, the court may limit the control to be exercised~~
31 ~~over the dependent child by any parent or guardian and shall by~~
32 ~~its order clearly and specifically set forth all those limitations. Any~~
33 ~~limitation on the right of the parent or guardian to make educational~~
34 ~~or developmental services decisions for the child shall be~~
35 ~~specifically addressed in the court order. The limitations may not~~
36 ~~exceed those necessary to protect the child. If the court specifically~~
37 ~~limits the right of the parent or guardian to make educational or~~
38 ~~developmental services decisions for the child, or, for the nonminor~~
39 ~~dependent, if the court finds the appointment of a developmental~~
40 ~~services decisionmaker to be in the best interests of the nonminor~~

1 dependent, the court shall at the same time appoint a responsible
2 adult to make educational or developmental services decisions for
3 the child or nonminor dependent until one of the following occurs:

4 (1) The minor reaches 18 years of age, unless the child or
5 nonminor dependent chooses not to make educational or
6 developmental services decisions for himself or herself, or is
7 deemed by the court to be incompetent.

8 (2) Another responsible adult is appointed to make educational
9 or developmental services decisions for the minor pursuant to this
10 section.

11 (3) The right of the parent or guardian to make educational or
12 developmental services decisions for the minor is fully restored.

13 (4) A successor guardian or conservator is appointed.

14 (5) The child is placed into a planned permanent living
15 arrangement pursuant to paragraph (3) of subdivision (g) of Section
16 366.21, Section 366.22, Section 366.26, or subdivision (i) of
17 Section 366.3, at which time, for educational decisionmaking, the
18 foster parent, relative caretaker, or nonrelative extended family
19 member as defined in Section 362.7, has the right to represent the
20 child in educational matters pursuant to Section 56055 of the
21 Education Code, and for decisions relating to developmental
22 services, unless the court specifies otherwise, the foster parent,
23 relative caregiver, or nonrelative extended family member of the
24 planned permanent living arrangement has the right to represent
25 the child or nonminor dependent in matters related to
26 developmental services.

27 An individual who would have a conflict of interest in
28 representing the child or nonminor dependent may not be appointed
29 to make educational or developmental services decisions. For
30 purposes of this section, “an individual who would have a conflict
31 of interest,” means a person having any interests that might restrict
32 or bias his or her ability to make educational or developmental
33 services decisions, including, but not limited to, those conflicts of
34 interest prohibited by Section 1126 of the Government Code, and
35 the receipt of compensation or attorneys’ fees for the provision of
36 services pursuant to this section. A foster parent may not be deemed
37 to have a conflict of interest solely because he or she receives
38 compensation for the provision of services pursuant to this section.

39 If the court is unable to appoint a responsible adult to make
40 educational decisions for the child and paragraphs (1) to (5),

1 inclusive, do not apply, and the child has either been referred to
2 the local educational agency for special education and related
3 services, or has a valid individualized education program, the court
4 shall refer the child to the local educational agency for appointment
5 of a surrogate parent pursuant to Section 7579.5 of the Government
6 Code.

7 If the court cannot identify a responsible adult to make
8 educational decisions for the child, the appointment of a surrogate
9 parent as defined in subdivision (a) of Section 56050 of the
10 Education Code is not warranted, and there is no foster parent to
11 exercise the authority granted by Section 56055 of the Education
12 Code, the court may, with the input of any interested person, make
13 educational decisions for the child.

14 If the court appoints a developmental services decisionmaker
15 pursuant to this section, he or she shall have the authority to access
16 the child's or nonminor dependent's information and records
17 pursuant to subdivision (u) of Section 4514 and subdivision (y) of
18 Section 5328, and to act on the child's or nonminor dependent's
19 behalf for the purposes of the individual program plan process
20 pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing
21 process pursuant to Chapter 7 (commencing with Section 4700)
22 of Division 4.5, and as set forth in the court order.

23 If the court cannot identify a responsible adult to make
24 developmental services decisions for the child or nonminor
25 dependent, the court may, with the input of any interested person,
26 make developmental services decisions for the child or nonminor
27 dependent. If the child is receiving services from a regional center,
28 the provision of any developmental services related to the court's
29 decision must be consistent with the child's or nonminor
30 dependent's individual program plan and pursuant to the provisions
31 of the Lanterman Developmental Disabilities Services Act
32 (Division 4.5 (commencing with Section 4500)).

33 All educational and school placement decisions shall seek to
34 ensure that the child is in the least restrictive educational programs
35 and has access to the academic resources, services, and
36 extracurricular and enrichment activities that are available to all
37 pupils. In all instances, educational and school placement decisions
38 shall be based on the best interests of the child.

39 (b) Subdivision (a) does not limit the ability of a parent to
40 voluntarily relinquish his or her child to the State Department of

1 ~~Social Services or to a licensed county adoption agency at any~~
2 ~~time while the child is a dependent child of the juvenile court, if~~
3 ~~the department or agency is willing to accept the relinquishment.~~

4 ~~(e) A dependent child may not be taken from the physical~~
5 ~~custody of his or her parents or guardian or guardians with whom~~
6 ~~the child resides at the time the petition was initiated, unless the~~
7 ~~juvenile court finds clear and convincing evidence of any of the~~
8 ~~following circumstances listed in paragraphs (1) to (5), inclusive;~~
9 ~~and, in an Indian child custody proceeding, paragraph (6):~~

10 ~~(1) There is or would be a substantial danger to the physical~~
11 ~~health, safety, protection, or physical or emotional well-being of~~
12 ~~the minor if the minor were returned home, and there are no~~
13 ~~reasonable means by which the minor's physical health can be~~
14 ~~protected without removing the minor from the minor's parent's~~
15 ~~or guardian's physical custody. The fact that a minor has been~~
16 ~~adjudicated a dependent child of the court pursuant to subdivision~~
17 ~~(e) of Section 300 shall constitute prima facie evidence that the~~
18 ~~minor cannot be safely left in the physical custody of the parent~~
19 ~~or guardian with whom the minor resided at the time of injury.~~
20 ~~The court shall consider, as a reasonable means to protect the~~
21 ~~minor, the option of removing an offending parent or guardian~~
22 ~~from the home. The court shall also consider, as a reasonable means~~
23 ~~to protect the minor, allowing a nonoffending parent or guardian~~
24 ~~to retain physical custody as long as that parent or guardian~~
25 ~~presents a plan acceptable to the court demonstrating that he or~~
26 ~~she will be able to protect the child from future harm.~~

27 ~~(2) The parent or guardian of the minor is unwilling to have~~
28 ~~physical custody of the minor, and the parent or guardian has been~~
29 ~~notified that if the minor remains out of their physical custody for~~
30 ~~the period specified in Section 366.26, the minor may be declared~~
31 ~~permanently free from their custody and control.~~

32 ~~(3) The minor is suffering severe emotional damage, as indicated~~
33 ~~by extreme anxiety, depression, withdrawal, or untoward aggressive~~
34 ~~behavior toward himself or herself or others, and there are no~~
35 ~~reasonable means by which the minor's emotional health may be~~
36 ~~protected without removing the minor from the physical custody~~
37 ~~of his or her parent or guardian.~~

38 ~~(4) The minor or a sibling of the minor has been sexually abused,~~
39 ~~or is deemed to be at substantial risk of being sexually abused, by~~
40 ~~a parent, guardian, or member of his or her household, or other~~

1 person known to his or her parent, and there are no reasonable
2 means by which the minor can be protected from further sexual
3 abuse or a substantial risk of sexual abuse without removing the
4 minor from his or her parent or guardian, or the minor does not
5 wish to return to his or her parent or guardian.

6 (5) The minor has been left without any provision for his or her
7 support, or a parent who has been incarcerated or institutionalized
8 cannot arrange for the care of the minor, or a relative or other adult
9 custodian with whom the child has been left by the parent is
10 unwilling or unable to provide care or support for the child and
11 the whereabouts of the parent is unknown and reasonable efforts
12 to locate him or her have been unsuccessful.

13 (6) In an Indian child custody proceeding, continued custody
14 of the child by the parent or Indian custodian is likely to result in
15 serious emotional or physical damage to the child, and that finding
16 is supported by testimony of a “qualified expert witness” as
17 described in Section 224.6.

18 (A) Stipulation by the parent, Indian custodian, or the Indian
19 child’s tribe, or failure to object, may waive the requirement of
20 producing evidence of the likelihood of serious damage only if the
21 court is satisfied that the party has been fully advised of the
22 requirements of the federal Indian Child Welfare Act (25 U.S.C.
23 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
24 waived them.

25 (B) Failure to meet non-Indian family and child-rearing
26 community standards, or the existence of other behavior or
27 conditions that meet the removal standards of this section, will not
28 support an order for placement in the absence of the finding in this
29 paragraph.

30 (d) The court shall make a determination as to whether
31 reasonable efforts were made to prevent or to eliminate the need
32 for removal of the minor from his or her home or, if the minor is
33 removed for one of the reasons stated in paragraph (5) of
34 subdivision (c), whether it was reasonable under the circumstances
35 not to make any of those efforts, or, in the case of an Indian child
36 custody proceeding, whether active efforts as required in Section
37 361.7 were made and that these efforts have proved unsuccessful.
38 The court shall state the facts on which the decision to remove the
39 minor is based.

~~(e) The court shall make all of the findings required by subdivision (a) of Section 366 in either of the following circumstances:~~

~~(1) The minor has been taken from the custody of his or her parent or guardian and has been living in an out-of-home placement pursuant to Section 319.~~

~~(2) The minor has been living in a voluntary out-of-home placement pursuant to Section 16507.4.~~

SEC. 15. Section 361 of the Welfare and Institutions Code is amended to read:

361. (a) In all cases in which a minor is adjudged a dependent child of the court on the ground that the minor is a person described by Section 300, the court may limit the control to be exercised over the dependent child by any parent or guardian and shall by its order clearly and specifically set forth all those limitations. Any limitation on the right of the parent or guardian to make educational or developmental services decisions for the child shall be specifically addressed in the court order. The limitations may not exceed those necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational or developmental services decisions for the child, ~~the court or, for the nonminor dependent, if the court finds the appointment of a developmental services decisionmaker to be in the best interests of the nonminor dependent, the court~~ shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child *or nonminor dependent* until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child *or nonminor dependent* chooses not to make educational or developmental services decisions for himself or herself, or is deemed by the court to be incompetent.

(2) Another responsible adult is appointed to make educational or developmental services decisions for the minor pursuant to this section.

(3) The right of the parent or guardian to make educational or developmental services decisions for the minor is fully restored.

(4) A successor guardian or conservator is appointed.

(5) The child is placed into a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, ~~or~~ Section 366.26, *or subdivision (i) of*

1 *Section 336.3*, at which time, for educational decisionmaking, the
2 foster parent, relative caretaker, or nonrelative extended family
3 member as defined in *Section 362.7*, has the right to represent the
4 child in educational matters pursuant to *Section 56055* of the
5 Education Code, and for decisions relating to developmental
6 services, unless the court specifies otherwise, the foster parent,
7 relative caregiver, or nonrelative extended family member of the
8 planned permanent living arrangement has the right to represent
9 the child *or nonminor dependent* in matters related to
10 developmental services.

11 An individual who would have a conflict of interest in
12 representing the child *or nonminor dependent* may not be appointed
13 to make educational or developmental services decisions. For
14 purposes of this section, “an individual who would have a conflict
15 of interest,” means a person having any interests that might restrict
16 or bias his or her ability to make educational or developmental
17 services decisions, including, but not limited to, those conflicts of
18 interest prohibited by *Section 1126* of the Government Code, and
19 the receipt of compensation or attorneys’ fees for the provision of
20 services pursuant to this section. A foster parent may not be deemed
21 to have a conflict of interest solely because he or she receives
22 compensation for the provision of services pursuant to this section.

23 If the court is unable to appoint a responsible adult to make
24 educational decisions for the child and paragraphs (1) to (5),
25 inclusive, do not apply, and the child has either been referred to
26 the local educational agency for special education and related
27 services, or has a valid individualized education program, the court
28 shall refer the child to the local educational agency for appointment
29 of a surrogate parent pursuant to *Section 7579.5* of the Government
30 Code.

31 If the court cannot identify a responsible adult to make
32 educational decisions for the child, the appointment of a surrogate
33 parent as defined in subdivision (a) of *Section 56050* of the
34 Education Code is not warranted, and there is no foster parent to
35 exercise the authority granted by *Section 56055* of the Education
36 Code, the court may, with the input of any interested person, make
37 educational decisions for the child.

38 If the court appoints a developmental services decisionmaker
39 pursuant to this section, he or she shall have the authority to access
40 the child’s *or nonminor dependent* information and records

1 pursuant to subdivision (u) of Section 4514 and subdivision (y) of
2 Section 5328, and to act on the child's *or nonminor dependent*
3 behalf for the purposes of the individual program plan process
4 pursuant to Sections 4646, 4646.5, and 4648 and the fair hearing
5 process pursuant to Chapter 7 (commencing with Section 4700)
6 of Division 4.5, and as set forth in the court order.

7 If the court cannot identify a responsible adult to make
8 developmental services decisions for the child *or nonminor*
9 *dependent*, the court may, with the input of any interested person,
10 make developmental services decisions for the child *or nonminor*
11 *dependent*. If the child is receiving services from a regional center,
12 the provision of any developmental services related to the court's
13 decision must be consistent with the child's *or nonminor dependent*
14 individual program plan and pursuant to the provisions of the
15 Lanterman Developmental Disabilities Services Act (Division 4.5
16 (commencing with Section 4500)).

17 All educational and school placement decisions shall seek to
18 ensure that the child is in the least restrictive educational programs
19 and has access to the academic resources, services, and
20 extracurricular and enrichment activities that are available to all
21 pupils. In all instances, educational and school placement decisions
22 shall be based on the best interests of the child.

23 (b) Subdivision (a) does not limit the ability of a parent to
24 voluntarily relinquish his or her child to the State Department of
25 Social Services or to a county adoption agency at any time while
26 the child is a dependent child of the juvenile court, if the
27 department or agency is willing to accept the relinquishment.

28 (c) A dependent child may not be taken from the physical
29 custody of his or her parents or guardian or guardians with whom
30 the child resides at the time the petition was initiated, unless the
31 juvenile court finds clear and convincing evidence of any of the
32 following circumstances listed in paragraphs (1) to (5), inclusive,
33 and, in an Indian child custody proceeding, paragraph (6):

34 (1) There is or would be a substantial danger to the physical
35 health, safety, protection, or physical or emotional well-being of
36 the minor if the minor were returned home, and there are no
37 reasonable means by which the minor's physical health can be
38 protected without removing the minor from the minor's parent's
39 or guardian's physical custody. The fact that a minor has been
40 adjudicated a dependent child of the court pursuant to subdivision

(e) of Section 300 shall constitute prima facie evidence that the minor cannot be safely left in the physical custody of the parent or guardian with whom the minor resided at the time of injury. The court shall consider, as a reasonable means to protect the minor, the option of removing an offending parent or guardian from the home. The court shall also consider, as a reasonable means to protect the minor, allowing a nonoffending parent or guardian to retain physical custody as long as that parent or guardian presents a plan acceptable to the court demonstrating that he or she will be able to protect the child from future harm.

(2) The parent or guardian of the minor is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period specified in Section 366.26, the minor may be declared permanently free from their custody and control.

(3) The minor is suffering severe emotional damage, as indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior toward himself or herself or others, and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from the physical custody of his or her parent or guardian.

(4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian.

(5) The minor has been left without any provision for his or her support, or a parent who has been incarcerated or institutionalized cannot arrange for the care of the minor, or a relative or other adult custodian with whom the child has been left by the parent is unwilling or unable to provide care or support for the child and the whereabouts of the parent is unknown and reasonable efforts to locate him or her have been unsuccessful.

(6) In an Indian child custody proceeding, continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child, and that finding

1 is supported by testimony of a “qualified expert witness” as
2 described in Section 224.6.

3 (A) Stipulation by the parent, Indian custodian, or the Indian
4 child’s tribe, or failure to object, may waive the requirement of
5 producing evidence of the likelihood of serious damage only if the
6 court is satisfied that the party has been fully advised of the
7 requirements of the federal Indian Child Welfare Act (25 U.S.C.
8 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
9 waived them.

10 (B) Failure to meet non-Indian family and child-rearing
11 community standards, or the existence of other behavior or
12 conditions that meet the removal standards of this section, will not
13 support an order for placement in the absence of the finding in this
14 paragraph.

15 (d) The court shall make a determination as to whether
16 reasonable efforts were made to prevent or to eliminate the need
17 for removal of the minor from his or her home or, if the minor is
18 removed for one of the reasons stated in paragraph (5) of
19 subdivision (c), whether it was reasonable under the circumstances
20 not to make any of those efforts, or, in the case of an Indian child
21 custody proceeding, whether active efforts as required in Section
22 361.7 were made and that these efforts have proved unsuccessful.
23 The court shall state the facts on which the decision to remove the
24 minor is based.

25 (e) The court shall make all of the findings required by
26 subdivision (a) of Section 366 in either of the following
27 circumstances:

28 (1) The minor has been taken from the custody of his or her
29 parent or guardian and has been living in an out-of-home placement
30 pursuant to Section 319.

31 (2) The minor has been living in a voluntary out-of-home
32 placement pursuant to Section 16507.4.

33 ~~SEC. 14. Section 361.5 of the Welfare and Institutions Code,~~
34 ~~as amended by Section 1 of Chapter 59 of the Statutes of 2011, is~~
35 ~~amended to read:~~

36 ~~361.5. (a) Except as provided in subdivision (b), or when the~~
37 ~~parent has voluntarily relinquished the child and the relinquishment~~
38 ~~has been filed with the State Department of Social Services, or~~
39 ~~upon the establishment of an order of guardianship pursuant to~~
40 ~~Section 360, or when a court adjudicates a petition under Section~~

1 329 to modify the court's jurisdiction from delinquency jurisdiction
2 to dependency jurisdiction pursuant to subparagraph (A) of
3 paragraph (2) of subdivision (b) of Section 607.2 and the parents
4 or guardian of the ward have had reunification services terminated
5 under the delinquency jurisdiction, whenever a child is removed
6 from a parent's or guardian's custody, the juvenile court shall order
7 the social worker to provide child welfare services to the child and
8 the child's mother and statutorily presumed father or guardians.
9 Upon a finding and declaration of paternity by the juvenile court
10 or proof of a prior declaration of paternity by any court of
11 competent jurisdiction, the juvenile court may order services for
12 the child and the biological father, if the court determines that the
13 services will benefit the child.

14 (1) Family reunification services, when provided, shall be
15 provided as follows:

16 (A) Except as otherwise provided in subparagraph (C), for a
17 child who, on the date of initial removal from the physical custody
18 of his or her parent or guardian, was three years of age or older,
19 court-ordered services shall be provided beginning with the
20 dispositional hearing and ending 12 months after the date the child
21 entered foster care as defined in Section 361.49, unless the child
22 is returned to the home of the parent or guardian.

23 (B) For a child who, on the date of initial removal from the
24 physical custody of his or her parent or guardian, was under three
25 years of age, court-ordered services shall be provided for a period
26 of six months from the dispositional hearing as provided in
27 subdivision (e) of Section 366.21, but no longer than 12 months
28 from the date the child entered foster care as defined in Section
29 361.49 unless the child is returned to the home of the parent or
30 guardian.

31 (C) For the purpose of placing and maintaining a sibling group
32 together in a permanent home should reunification efforts fail, for
33 a child in a sibling group whose members were removed from
34 parental custody at the same time, and in which one member of
35 the sibling group was under three years of age on the date of initial
36 removal from the physical custody of his or her parent or guardian,
37 court-ordered services for some or all of the sibling group may be
38 limited as set forth in subparagraph (B). For the purposes of this
39 paragraph, "a sibling group" shall mean two or more children who
40 are related to each other as full or half siblings.

~~(2) Any motion to terminate court-ordered reunification services prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1), or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1), shall be made pursuant to the requirements set forth in subdivision (e) of Section 388. A motion to terminate court-ordered reunification services shall not be required at the hearing set pursuant to subdivision (e) of Section 366.21 if the court finds by clear and convincing evidence one of the following:~~

~~(A) That the child was removed initially under subdivision (g) of Section 300 and the whereabouts of the parent are still unknown.~~

~~(B) That the parent has failed to contact and visit the child.~~

~~(C) That the parent has been convicted of a felony indicating parental unfitness.~~

~~(3) Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, or parent or parents court-ordered to a residential substance abuse treatment program, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant~~

1 to subdivision (a) of Section 366 and subdivision (c) of Section
2 358.1.

3 ~~When counseling or other treatment services are ordered, the~~
4 ~~parent or guardian shall be ordered to participate in those services,~~
5 ~~unless the parent's or guardian's participation is deemed by the~~
6 ~~court to be inappropriate or potentially detrimental to the child, or~~
7 ~~unless a parent or guardian is incarcerated and the corrections~~
8 ~~facility in which he or she is incarcerated does not provide access~~
9 ~~to the treatment services ordered by the court. Physical custody of~~
10 ~~the child by the parents or guardians during the applicable time~~
11 ~~period under subparagraph (A), (B), or (C) of paragraph (1) shall~~
12 ~~not serve to interrupt the running of the period. If at the end of the~~
13 ~~applicable time period, a child cannot be safely returned to the~~
14 ~~care and custody of a parent or guardian without court supervision,~~
15 ~~but the child clearly desires contact with the parent or guardian,~~
16 ~~the court shall take the child's desire into account in devising a~~
17 ~~permanency plan.~~

18 ~~In cases where the child was under three years of age on the date~~
19 ~~of the initial removal from the physical custody of his or her parent~~
20 ~~or guardian or is a member of a sibling group as described in~~
21 ~~subparagraph (C) of paragraph (1), the court shall inform the parent~~
22 ~~or guardian that the failure of the parent or guardian to participate~~
23 ~~regularly in any court-ordered treatment programs or to cooperate~~
24 ~~or avail himself or herself of services provided as part of the child~~
25 ~~welfare services case plan may result in a termination of efforts~~
26 ~~to reunify the family after six months. The court shall inform the~~
27 ~~parent or guardian of the factors used in subdivision (c) of Section~~
28 ~~366.21 to determine whether to limit services to six months for~~
29 ~~some or all members of a sibling group as described in~~
30 ~~subparagraph (C) of paragraph (1).~~

31 ~~(4) Notwithstanding paragraph (3), court-ordered services may~~
32 ~~be extended up to a maximum time period not to exceed 24 months~~
33 ~~after the date the child was originally removed from physical~~
34 ~~custody of his or her parent or guardian if it is shown, at the hearing~~
35 ~~held pursuant to subdivision (b) of Section 366.22, that the~~
36 ~~permanent plan for the child is that he or she will be returned and~~
37 ~~safely maintained in the home within the extended time period.~~
38 ~~The court shall extend the time period only if it finds that it is in~~
39 ~~the child's best interest to have the time period extended and that~~
40 ~~there is a substantial probability that the child will be returned to~~

1 the physical custody of his or her parent or guardian who is
2 described in subdivision (b) of Section 366.22 within the extended
3 time period, or that reasonable services have not been provided to
4 the parent or guardian. If the court extends the time period, the
5 court shall specify the factual basis for its conclusion that there is
6 a substantial probability that the child will be returned to the
7 physical custody of his or her parent or guardian within the
8 extended time period. The court also shall make findings pursuant
9 to subdivision (a) of Section 366 and subdivision (c) of Section
10 358.1.

11 When counseling or other treatment services are ordered, the
12 parent or guardian shall be ordered to participate in those services,
13 in order for substantial probability to be found. Physical custody
14 of the child by the parents or guardians during the applicable time
15 period under subparagraph (A), (B), or (C) of paragraph (1) shall
16 not serve to interrupt the running of the period. If at the end of the
17 applicable time period, the child cannot be safely returned to the
18 care and custody of a parent or guardian without court supervision,
19 but the child clearly desires contact with the parent or guardian,
20 the court shall take the child's desire into account in devising a
21 permanency plan.

22 Except in cases where, pursuant to subdivision (b), the court
23 does not order reunification services, the court shall inform the
24 parent or parents of Section 366.26 and shall specify that the
25 parent's or parents' parental rights may be terminated.

26 (b) Reunification services need not be provided to a parent or
27 guardian described in this subdivision when the court finds, by
28 clear and convincing evidence, any of the following:

29 (1) That the whereabouts of the parent or guardian is unknown.
30 A finding pursuant to this paragraph shall be supported by an
31 affidavit or by proof that a reasonably diligent search has failed
32 to locate the parent or guardian. The posting or publication of
33 notices is not required in that search.

34 (2) That the parent or guardian is suffering from a mental
35 disability that is described in Chapter 2 (commencing with Section
36 7820) of Part 4 of Division 12 of the Family Code and that renders
37 him or her incapable of utilizing those services.

38 (3) That the child or a sibling of the child has been previously
39 adjudicated a dependent pursuant to any subdivision of Section
40 300 as a result of physical or sexual abuse, that following that

1 adjudication the child had been removed from the custody of his
2 or her parent or guardian pursuant to Section 361, that the child
3 has been returned to the custody of the parent or guardian from
4 whom the child had been taken originally, and that the child is
5 being removed pursuant to Section 361, due to additional physical
6 or sexual abuse.

7 (4) That the parent or guardian of the child has caused the death
8 of another child through abuse or neglect.

9 (5) That the child was brought within the jurisdiction of the
10 court under subdivision (e) of Section 300 because of the conduct
11 of that parent or guardian.

12 (6) That the child has been adjudicated a dependent pursuant
13 to any subdivision of Section 300 as a result of severe sexual abuse
14 or the infliction of severe physical harm to the child, a sibling, or
15 a half sibling by a parent or guardian, as defined in this subdivision;
16 and the court makes a factual finding that it would not benefit the
17 child to pursue reunification services with the offending parent or
18 guardian.

19 A finding of severe sexual abuse, for the purposes of this
20 subdivision, may be based on, but is not limited to, sexual
21 intercourse, or stimulation involving genital-genital, oral-genital,
22 anal-genital, or oral-anal contact, whether between the parent or
23 guardian and the child or a sibling or half sibling of the child, or
24 between the child or a sibling or half sibling of the child and
25 another person or animal with the actual or implied consent of the
26 parent or guardian; or the penetration or manipulation of the
27 child's, sibling's, or half sibling's genital organs or rectum by any
28 animate or inanimate object for the sexual gratification of the
29 parent or guardian, or for the sexual gratification of another person
30 with the actual or implied consent of the parent or guardian.

31 A finding of the infliction of severe physical harm, for the
32 purposes of this subdivision, may be based on, but is not limited
33 to, deliberate and serious injury inflicted to or on a child's body
34 or the body of a sibling or half sibling of the child by an act or
35 omission of the parent or guardian, or of another individual or
36 animal with the consent of the parent or guardian; deliberate and
37 torturous confinement of the child, sibling, or half sibling in a
38 closed space; or any other torturous act or omission that would be
39 reasonably understood to cause serious emotional damage.

1 ~~(7) That the parent is not receiving reunification services for a~~
2 ~~sibling or a half sibling of the child pursuant to paragraph (3), (5),~~
3 ~~or (6).~~

4 ~~(8) That the child was conceived by means of the commission~~
5 ~~of an offense listed in Section 288 or 288.5 of the Penal Code, or~~
6 ~~by an act committed outside of this state that, if committed in this~~
7 ~~state, would constitute one of those offenses. This paragraph only~~
8 ~~applies to the parent who committed the offense or act.~~

9 ~~(9) That the child has been found to be a child described in~~
10 ~~subdivision (g) of Section 300; that the parent or guardian of the~~
11 ~~child willfully abandoned the child, and the court finds that the~~
12 ~~abandonment itself constituted a serious danger to the child; or~~
13 ~~that the parent or other person having custody of the child~~
14 ~~voluntarily surrendered physical custody of the child pursuant to~~
15 ~~Section 1255.7 of the Health and Safety Code. For the purposes~~
16 ~~of this paragraph, “serious danger” means that without the~~
17 ~~intervention of another person or agency, the child would have~~
18 ~~sustained severe or permanent disability, injury, illness, or death.~~
19 ~~For purposes of this paragraph, “willful abandonment” shall not~~
20 ~~be construed as actions taken in good faith by the parent without~~
21 ~~the intent of placing the child in serious danger.~~

22 ~~(10) That the court ordered termination of reunification services~~
23 ~~for any siblings or half siblings of the child because the parent or~~
24 ~~guardian failed to reunify with the sibling or half sibling after the~~
25 ~~sibling or half sibling had been removed from that parent or~~
26 ~~guardian pursuant to Section 361 and that parent or guardian is~~
27 ~~the same parent or guardian described in subdivision (a) and that,~~
28 ~~according to the findings of the court, this parent or guardian has~~
29 ~~not subsequently made a reasonable effort to treat the problems~~
30 ~~that led to removal of the sibling or half sibling of that child from~~
31 ~~that parent or guardian.~~

32 ~~(11) That the parental rights of a parent over any sibling or half~~
33 ~~sibling of the child had been permanently severed, and this parent~~
34 ~~is the same parent described in subdivision (a), and that, according~~
35 ~~to the findings of the court, this parent has not subsequently made~~
36 ~~a reasonable effort to treat the problems that led to removal of the~~
37 ~~sibling or half sibling of that child from the parent.~~

38 ~~(12) That the parent or guardian of the child has been convicted~~
39 ~~of a violent felony, as defined in subdivision (c) of Section 667.5~~
40 ~~of the Penal Code.~~

1 ~~(13) That the parent or guardian of the child has a history of~~
2 ~~extensive, abusive, and chronic use of drugs or alcohol and has~~
3 ~~resisted prior court-ordered treatment for this problem during a~~
4 ~~three-year period immediately prior to the filing of the petition~~
5 ~~that brought that child to the court's attention, or has failed or~~
6 ~~refused to comply with a program of drug or alcohol treatment~~
7 ~~described in the case plan required by Section 358.1 on at least~~
8 ~~two prior occasions, even though the programs identified were~~
9 ~~available and accessible.~~

10 ~~(14) That the parent or guardian of the child has advised the~~
11 ~~court that he or she is not interested in receiving family~~
12 ~~maintenance or family reunification services or having the child~~
13 ~~returned to or placed in his or her custody and does not wish to~~
14 ~~receive family maintenance or reunification services.~~

15 ~~The parent or guardian shall be represented by counsel and shall~~
16 ~~execute a waiver of services form to be adopted by the Judicial~~
17 ~~Council. The court shall advise the parent or guardian of any right~~
18 ~~to services and of the possible consequences of a waiver of~~
19 ~~services, including the termination of parental rights and placement~~
20 ~~of the child for adoption. The court shall not accept the waiver of~~
21 ~~services unless it states on the record its finding that the parent or~~
22 ~~guardian has knowingly and intelligently waived the right to~~
23 ~~services.~~

24 ~~(15) That the parent or guardian has on one or more occasions~~
25 ~~willfully abducted the child or child's sibling or half sibling from~~
26 ~~his or her placement and refused to disclose the child's or child's~~
27 ~~sibling's or half sibling's whereabouts, refused to return physical~~
28 ~~custody of the child or child's sibling or half sibling to his or her~~
29 ~~placement, or refused to return physical custody of the child or~~
30 ~~child's sibling or half sibling to the social worker.~~

31 ~~(c) In deciding whether to order reunification in any case in~~
32 ~~which this section applies, the court shall hold a dispositional~~
33 ~~hearing. The social worker shall prepare a report that discusses~~
34 ~~whether reunification services shall be provided. When it is alleged,~~
35 ~~pursuant to paragraph (2) of subdivision (b), that the parent is~~
36 ~~incapable of utilizing services due to mental disability, the court~~
37 ~~shall order reunification services unless competent evidence from~~
38 ~~mental health professionals establishes that, even with the provision~~
39 ~~of services, the parent is unlikely to be capable of adequately caring~~
40 ~~for the child within the time limits specified in subdivision (a).~~

1 The court shall not order reunification for a parent or guardian
2 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
3 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
4 and convincing evidence, that reunification is in the best interest
5 of the child.

6 In addition, the court shall not order reunification in any situation
7 described in paragraph (5) of subdivision (b) unless it finds that,
8 based on competent testimony, those services are likely to prevent
9 reabuse or continued neglect of the child or that failure to try
10 reunification will be detrimental to the child because the child is
11 closely and positively attached to that parent. The social worker
12 shall investigate the circumstances leading to the removal of the
13 child and advise the court whether there are circumstances that
14 indicate that reunification is likely to be successful or unsuccessful
15 and whether failure to order reunification is likely to be detrimental
16 to the child.

17 The failure of the parent to respond to previous services, the fact
18 that the child was abused while the parent was under the influence
19 of drugs or alcohol, a past history of violent behavior, or testimony
20 by a competent professional that the parent's behavior is unlikely
21 to be changed by services are among the factors indicating that
22 reunification services are unlikely to be successful. The fact that
23 a parent or guardian is no longer living with an individual who
24 severely abused the child may be considered in deciding that
25 reunification services are likely to be successful, provided that the
26 court shall consider any pattern of behavior on the part of the parent
27 that has exposed the child to repeated abuse.

28 (d) If reunification services are not ordered pursuant to
29 paragraph (1) of subdivision (b) and the whereabouts of a parent
30 become known within six months of the out-of-home placement
31 of the child, the court shall order the social worker to provide
32 family reunification services in accordance with this subdivision.

33 (e) (1) If the parent or guardian is incarcerated or
34 institutionalized, the court shall order reasonable services unless
35 the court determines, by clear and convincing evidence, those
36 services would be detrimental to the child. In determining
37 detriment, the court shall consider the age of the child, the degree
38 of parent-child bonding, the length of the sentence, the length and
39 nature of the treatment, the nature of the crime or illness, the degree
40 of detriment to the child if services are not offered and, for children

1 ~~10 years of age or older, the child's attitude toward the~~
2 ~~implementation of family reunification services, the likelihood of~~
3 ~~the parent's discharge from incarceration or institutionalization~~
4 ~~within the reunification time limitations described in subdivision~~
5 ~~(a), and any other appropriate factors. In determining the content~~
6 ~~of reasonable services, the court shall consider the particular~~
7 ~~barriers to an incarcerated or otherwise institutionalized parent's~~
8 ~~access to those court-mandated services and ability to maintain~~
9 ~~contact with his or her child, and shall document this information~~
10 ~~in the child's case plan. Reunification services are subject to the~~
11 ~~applicable time limitations imposed in subdivision (a). Services~~
12 ~~may include, but shall not be limited to, all of the following:~~

13 ~~(A) Maintaining contact between the parent and child through~~
14 ~~collect telephone calls.~~

15 ~~(B) Transportation services, where appropriate.~~

16 ~~(C) Visitation services, where appropriate.~~

17 ~~(D) Reasonable services to extended family members or foster~~
18 ~~parents providing care for the child if the services are not~~
19 ~~detrimental to the child.~~

20 ~~An incarcerated parent may be required to attend counseling,~~
21 ~~parenting classes, or vocational training programs as part of the~~
22 ~~reunification service plan if actual access to these services is~~
23 ~~provided. The social worker shall document in the child's case~~
24 ~~plan the particular barriers to an incarcerated or institutionalized~~
25 ~~parent's access to those court-mandated services and ability to~~
26 ~~maintain contact with his or her child.~~

27 ~~(2) The presiding judge of the juvenile court of each county~~
28 ~~may convene representatives of the county welfare department,~~
29 ~~the sheriff's department, and other appropriate entities for the~~
30 ~~purpose of developing and entering into protocols for ensuring the~~
31 ~~notification, transportation, and presence of an incarcerated or~~
32 ~~institutionalized parent at all court hearings involving proceedings~~
33 ~~affecting the child pursuant to Section 2625 of the Penal Code.~~
34 ~~The county welfare department shall utilize the prisoner locator~~
35 ~~system developed by the Department of Corrections and~~
36 ~~Rehabilitation to facilitate timely and effective notice of hearings~~
37 ~~for incarcerated parents.~~

38 ~~(3) Notwithstanding any other provision of law, if the~~
39 ~~incarcerated parent is a woman seeking to participate in the~~
40 ~~community treatment program operated by the Department of~~

1 ~~Corrections and Rehabilitation pursuant to Chapter 4.8~~
2 ~~(commencing with Section 1174) of Title 7 of Part 2 of, Chapter~~
3 ~~4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal~~
4 ~~Code, the court shall determine whether the parent's participation~~
5 ~~in a program is in the child's best interest and whether it is suitable~~
6 ~~to meet the needs of the parent and child.~~

7 ~~(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),~~
8 ~~(8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or~~
9 ~~paragraph (1) of subdivision (c), does not order reunification~~
10 ~~services, it shall, at the dispositional hearing, that shall include a~~
11 ~~permanency hearing, determine if a hearing under Section 366.26~~
12 ~~shall be set in order to determine whether adoption, guardianship,~~
13 ~~or long-term foster care, or in the case of an Indian child, in~~
14 ~~consultation with the child's tribe, tribal customary adoption, is~~
15 ~~the most appropriate plan for the child, and shall consider in-state~~
16 ~~and out-of-state placement options. If the court so determines, it~~
17 ~~shall conduct the hearing pursuant to Section 366.26 within 120~~
18 ~~days after the dispositional hearing. However, the court shall not~~
19 ~~schedule a hearing so long as the other parent is being provided~~
20 ~~reunification services pursuant to subdivision (a). The court may~~
21 ~~continue to permit the parent to visit the child unless it finds that~~
22 ~~visitation would be detrimental to the child.~~

23 ~~(g) (1) Whenever a court orders that a hearing shall be held~~
24 ~~pursuant to Section 366.26, including, when, in consultation with~~
25 ~~the child's tribe, tribal customary adoption is recommended, it~~
26 ~~shall direct the agency supervising the child and the licensed county~~
27 ~~adoption agency, or the State Department of Social Services when~~
28 ~~it is acting as an adoption agency in counties that are not served~~
29 ~~by a county adoption agency, to prepare an assessment that shall~~
30 ~~include:~~

31 ~~(A) Current search efforts for an absent parent or parents and~~
32 ~~notification of a noncustodial parent in the manner provided for~~
33 ~~in Section 291.~~

34 ~~(B) A review of the amount of and nature of any contact between~~
35 ~~the child and his or her parents and other members of his or her~~
36 ~~extended family since the time of placement. Although the~~
37 ~~extended family of each child shall be reviewed on a case-by-case~~
38 ~~basis, "extended family" for the purpose of this subparagraph shall~~
39 ~~include, but not be limited to, the child's siblings, grandparents,~~
40 ~~aunts, and uncles.~~

1 ~~(C) An evaluation of the child's medical, developmental,~~
2 ~~scholastic, mental, and emotional status.~~

3 ~~(D) A preliminary assessment of the eligibility and commitment~~
4 ~~of any identified prospective adoptive parent or guardian, including~~
5 ~~a prospective tribal customary adoptive parent, particularly the~~
6 ~~caretaker, to include a social history, including screening for~~
7 ~~criminal records and prior referrals for child abuse or neglect, the~~
8 ~~capability to meet the child's needs, and the understanding of the~~
9 ~~legal and financial rights and responsibilities of adoption and~~
10 ~~guardianship. If a proposed guardian is a relative of the minor, the~~
11 ~~assessment shall also consider, but need not be limited to, all of~~
12 ~~the factors specified in subdivision (a) of Section 361.3 and in~~
13 ~~Section 361.4. As used in this subparagraph, "relative" means an~~
14 ~~adult who is related to the minor by blood, adoption, or affinity~~
15 ~~within the fifth degree of kinship, including stepparents,~~
16 ~~stepsiblings, and all relatives whose status is preceded by the words~~
17 ~~"great," "great-great," or "grand," or the spouse of any of those~~
18 ~~persons even if the marriage was terminated by death or~~
19 ~~dissolution. If the proposed permanent plan is guardianship with~~
20 ~~an approved relative caregiver for a minor eligible for aid under~~
21 ~~the Kin-GAP Program, as provided for in Article 4.7 (commencing~~
22 ~~with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative"~~
23 ~~as used in this section has the same meaning as "relative" as~~
24 ~~defined in subdivision (e) of Section 11391.~~

25 ~~(E) The relationship of the child to any identified prospective~~
26 ~~adoptive parent or guardian, including a prospective tribal~~
27 ~~customary parent, the duration and character of the relationship,~~
28 ~~the degree of attachment of the child to the prospective relative~~
29 ~~guardian or adoptive parent, the relative's or adoptive parent's~~
30 ~~strong commitment to caring permanently for the child, the~~
31 ~~motivation for seeking adoption or guardianship, a statement from~~
32 ~~the child concerning placement and the adoption or guardianship,~~
33 ~~and whether the child over 12 years of age has been consulted~~
34 ~~about the proposed relative guardianship arrangements, unless the~~
35 ~~child's age or physical, emotional, or other condition precludes~~
36 ~~his or her meaningful response, and if so, a description of the~~
37 ~~condition.~~

38 ~~(F) An analysis of the likelihood that the child will be adopted~~
39 ~~if parental rights are terminated.~~

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a tribal customary adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

(h) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), of Chapter 2 of Part 3 of Division 9, as applicable.

(i) In determining whether reunification services will benefit the child pursuant to paragraph (6) or (7) of subdivision (b), the

1 court shall consider any information it deems relevant, including
2 the following factors:

3 (1) ~~The specific act or omission comprising the severe sexual~~
4 ~~abuse or the severe physical harm inflicted on the child or the~~
5 ~~child's sibling or half sibling.~~

6 (2) ~~The circumstances under which the abuse or harm was~~
7 ~~inflicted on the child or the child's sibling or half sibling.~~

8 (3) ~~The severity of the emotional trauma suffered by the child~~
9 ~~or the child's sibling or half sibling.~~

10 (4) ~~Any history of abuse of other children by the offending~~
11 ~~parent or guardian.~~

12 (5) ~~The likelihood that the child may be safely returned to the~~
13 ~~care of the offending parent or guardian within 12 months with no~~
14 ~~continuing supervision.~~

15 (6) ~~Whether or not the child desires to be reunified with the~~
16 ~~offending parent or guardian.~~

17 (j) ~~When the court determines that reunification services will~~
18 ~~not be ordered, it shall order that the child's caregiver receive the~~
19 ~~child's birth certificate in accordance with Sections 16010.4 and~~
20 ~~16010.5. Additionally, when the court determines that reunification~~
21 ~~services will not be ordered, it shall order, when appropriate, that~~
22 ~~a child who is 16 years of age or older receive his or her birth~~
23 ~~certificate.~~

24 (k) ~~The court shall read into the record the basis for a finding~~
25 ~~of severe sexual abuse or the infliction of severe physical harm~~
26 ~~under paragraph (6) of subdivision (b), and shall also specify the~~
27 ~~factual findings used to determine that the provision of~~
28 ~~reunification services to the offending parent or guardian would~~
29 ~~not benefit the child.~~

30 (l) ~~This section shall remain in effect only until January 1, 2014,~~
31 ~~and as of that date is repealed, unless a later enacted statute, that~~
32 ~~is enacted before January 1, 2014, deletes or extends that date.~~

33 SEC. 15. ~~Section 361.5 of the Welfare and Institutions Code,~~
34 ~~as amended by Section 2 of Chapter 59 of the Statutes of 2011, is~~
35 ~~amended to read:~~

36 361.5. (a) ~~Except as provided in subdivision (b), or when the~~
37 ~~parent has voluntarily relinquished the child and the relinquishment~~
38 ~~has been filed with the State Department of Social Services, or~~
39 ~~upon the establishment of an order of guardianship pursuant to~~
40 ~~Section 360, or when a court adjudicates a petition under Section~~

329 to modify the court's jurisdiction from delinquency jurisdiction
to dependency jurisdiction pursuant to subparagraph (A) of
paragraph (2) of subdivision (b) of Section 607.2 and the parents
or guardian of the ward have had reunification services terminated
under the delinquency jurisdiction, whenever a child is removed
from a parent's or guardian's custody, the juvenile court shall order
the social worker to provide child welfare services to the child and
the child's mother and statutorily presumed father or guardians.
Upon a finding and declaration of paternity by the juvenile court
or proof of a prior declaration of paternity by any court of
competent jurisdiction, the juvenile court may order services for
the child and the biological father, if the court determines that the
services will benefit the child.

(1) Family reunification services, when provided, shall be
provided as follows:

(A) Except as otherwise provided in subparagraph (C), for a
child who, on the date of initial removal from the physical custody
of his or her parent or guardian, was three years of age or older,
court-ordered services shall be provided beginning with the
dispositional hearing and ending 12 months after the date the child
entered foster care as defined in Section 361.49, unless the child
is returned to the home of the parent or guardian.

(B) For a child who, on the date of initial removal from the
physical custody of his or her parent or guardian, was under three
years of age, court-ordered services shall be provided for a period
of six months from the dispositional hearing as provided in
subdivision (e) of Section 366.21, but no longer than 12 months
from the date the child entered foster care as defined in Section
361.49 unless the child is returned to the home of the parent or
guardian.

(C) For the purpose of placing and maintaining a sibling group
together in a permanent home should reunification efforts fail, for
a child in a sibling group whose members were removed from
parental custody at the same time, and in which one member of
the sibling group was under three years of age on the date of initial
removal from the physical custody of his or her parent or guardian,
court-ordered services for some or all of the sibling group may be
limited as set forth in subparagraph (B). For the purposes of this
paragraph, "a sibling group" shall mean two or more children who
are related to each other as full or half siblings.

1 ~~(2) Any motion to terminate court-ordered reunification services~~
2 ~~prior to the hearing set pursuant to subdivision (f) of Section 366.21~~
3 ~~for a child described by subparagraph (A) of paragraph (1), or~~
4 ~~prior to the hearing set pursuant to subdivision (e) of Section~~
5 ~~366.21 for a child described by subparagraph (B) or (C) of~~
6 ~~paragraph (1), shall be made pursuant to the requirements set forth~~
7 ~~in subdivision (e) of Section 388. A motion to terminate~~
8 ~~court-ordered reunification services shall not be required at the~~
9 ~~hearing set pursuant to subdivision (e) of Section 366.21 if the~~
10 ~~court finds by clear and convincing evidence one of the following:~~

11 ~~(A) That the child was removed initially under subdivision (g)~~
12 ~~of Section 300 and the whereabouts of the parent are still unknown.~~

13 ~~(B) That the parent has failed to contact and visit the child.~~

14 ~~(C) That the parent has been convicted of a felony indicating~~
15 ~~parental unfitness.~~

16 ~~(3) Notwithstanding subparagraphs (A), (B), and (C) of~~
17 ~~paragraph (1), court-ordered services may be extended up to a~~
18 ~~maximum time period not to exceed 18 months after the date the~~
19 ~~child was originally removed from physical custody of his or her~~
20 ~~parent or guardian if it can be shown, at the hearing held pursuant~~
21 ~~to subdivision (f) of Section 366.21, that the permanent plan for~~
22 ~~the child is that he or she will be returned and safely maintained~~
23 ~~in the home within the extended time period. The court shall extend~~
24 ~~the time period only if it finds that there is a substantial probability~~
25 ~~that the child will be returned to the physical custody of his or her~~
26 ~~parent or guardian within the extended time period or that~~
27 ~~reasonable services have not been provided to the parent or~~
28 ~~guardian. In determining whether court-ordered services may be~~
29 ~~extended, the court shall consider the special circumstances of an~~
30 ~~incarcerated or institutionalized parent or parents, or parent or~~
31 ~~parents court-ordered to a residential substance abuse treatment~~
32 ~~program, including, but not limited to, barriers to the parent's or~~
33 ~~guardian's access to services and ability to maintain contact with~~
34 ~~his or her child. The court shall also consider, among other factors,~~
35 ~~good faith efforts that the parent or guardian has made to maintain~~
36 ~~contact with the child. If the court extends the time period, the~~
37 ~~court shall specify the factual basis for its conclusion that there is~~
38 ~~a substantial probability that the child will be returned to the~~
39 ~~physical custody of his or her parent or guardian within the~~
40 ~~extended time period. The court also shall make findings pursuant~~

1 to subdivision (a) of Section 366 and subdivision (e) of Section
2 358.1.

3 ~~When counseling or other treatment services are ordered, the~~
4 ~~parent or guardian shall be ordered to participate in those services,~~
5 ~~unless the parent's or guardian's participation is deemed by the~~
6 ~~court to be inappropriate or potentially detrimental to the child, or~~
7 ~~unless a parent or guardian is incarcerated and the corrections~~
8 ~~facility in which he or she is incarcerated does not provide access~~
9 ~~to the treatment services ordered by the court. Physical custody of~~
10 ~~the child by the parents or guardians during the applicable time~~
11 ~~period under subparagraph (A), (B), or (C) of paragraph (1) shall~~
12 ~~not serve to interrupt the running of the period. If at the end of the~~
13 ~~applicable time period, a child cannot be safely returned to the~~
14 ~~care and custody of a parent or guardian without court supervision,~~
15 ~~but the child clearly desires contact with the parent or guardian,~~
16 ~~the court shall take the child's desire into account in devising a~~
17 ~~permanency plan.~~

18 ~~In cases where the child was under three years of age on the date~~
19 ~~of the initial removal from the physical custody of his or her parent~~
20 ~~or guardian or is a member of a sibling group as described in~~
21 ~~subparagraph (C) of paragraph (1), the court shall inform the parent~~
22 ~~or guardian that the failure of the parent or guardian to participate~~
23 ~~regularly in any court-ordered treatment programs or to cooperate~~
24 ~~or avail himself or herself of services provided as part of the child~~
25 ~~welfare services case plan may result in a termination of efforts~~
26 ~~to reunify the family after six months. The court shall inform the~~
27 ~~parent or guardian of the factors used in subdivision (e) of Section~~
28 ~~366.21 to determine whether to limit services to six months for~~
29 ~~some or all members of a sibling group as described in~~
30 ~~subparagraph (C) of paragraph (1).~~

31 ~~(4) Notwithstanding paragraph (3), court-ordered services may~~
32 ~~be extended up to a maximum time period not to exceed 24 months~~
33 ~~after the date the child was originally removed from physical~~
34 ~~custody of his or her parent or guardian if it is shown, at the hearing~~
35 ~~held pursuant to subdivision (b) of Section 366.22, that the~~
36 ~~permanent plan for the child is that he or she will be returned and~~
37 ~~safely maintained in the home within the extended time period.~~
38 ~~The court shall extend the time period only if it finds that it is in~~
39 ~~the child's best interest to have the time period extended and that~~
40 ~~there is a substantial probability that the child will be returned to~~

1 the physical custody of his or her parent or guardian who is
2 described in subdivision (b) of Section 366.22 within the extended
3 time period, or that reasonable services have not been provided to
4 the parent or guardian. If the court extends the time period, the
5 court shall specify the factual basis for its conclusion that there is
6 a substantial probability that the child will be returned to the
7 physical custody of his or her parent or guardian within the
8 extended time period. The court also shall make findings pursuant
9 to subdivision (a) of Section 366 and subdivision (c) of Section
10 358.1.

11 When counseling or other treatment services are ordered, the
12 parent or guardian shall be ordered to participate in those services,
13 in order for substantial probability to be found. Physical custody
14 of the child by the parents or guardians during the applicable time
15 period under subparagraph (A), (B), or (C) of paragraph (1) shall
16 not serve to interrupt the running of the period. If at the end of the
17 applicable time period, the child cannot be safely returned to the
18 care and custody of a parent or guardian without court supervision,
19 but the child clearly desires contact with the parent or guardian,
20 the court shall take the child's desire into account in devising a
21 permanency plan.

22 Except in cases where, pursuant to subdivision (b), the court
23 does not order reunification services, the court shall inform the
24 parent or parents of Section 366.26 and shall specify that the
25 parent's or parents' parental rights may be terminated.

26 (b) Reunification services need not be provided to a parent or
27 guardian described in this subdivision when the court finds, by
28 clear and convincing evidence, any of the following:

29 (1) That the whereabouts of the parent or guardian is unknown.
30 A finding pursuant to this paragraph shall be supported by an
31 affidavit or by proof that a reasonably diligent search has failed
32 to locate the parent or guardian. The posting or publication of
33 notices is not required in that search.

34 (2) That the parent or guardian is suffering from a mental
35 disability that is described in Chapter 2 (commencing with Section
36 7820) of Part 4 of Division 12 of the Family Code and that renders
37 him or her incapable of utilizing those services.

38 (3) That the child or a sibling of the child has been previously
39 adjudicated a dependent pursuant to any subdivision of Section
40 300 as a result of physical or sexual abuse, that following that

1 adjudication the child had been removed from the custody of his
2 or her parent or guardian pursuant to Section 361, that the child
3 has been returned to the custody of the parent or guardian from
4 whom the child had been taken originally, and that the child is
5 being removed pursuant to Section 361, due to additional physical
6 or sexual abuse.

7 (4) That the parent or guardian of the child has caused the death
8 of another child through abuse or neglect.

9 (5) That the child was brought within the jurisdiction of the
10 court under subdivision (e) of Section 300 because of the conduct
11 of that parent or guardian.

12 (6) That the child has been adjudicated a dependent pursuant
13 to any subdivision of Section 300 as a result of severe sexual abuse
14 or the infliction of severe physical harm to the child, a sibling, or
15 a half sibling by a parent or guardian, as defined in this subdivision;
16 and the court makes a factual finding that it would not benefit the
17 child to pursue reunification services with the offending parent or
18 guardian.

19 A finding of severe sexual abuse, for the purposes of this
20 subdivision, may be based on, but is not limited to, sexual
21 intercourse, or stimulation involving genital-genital, oral-genital,
22 anal-genital, or oral-anal contact, whether between the parent or
23 guardian and the child or a sibling or half sibling of the child, or
24 between the child or a sibling or half sibling of the child and
25 another person or animal with the actual or implied consent of the
26 parent or guardian; or the penetration or manipulation of the
27 child's, sibling's, or half sibling's genital organs or rectum by any
28 animate or inanimate object for the sexual gratification of the
29 parent or guardian, or for the sexual gratification of another person
30 with the actual or implied consent of the parent or guardian.

31 A finding of the infliction of severe physical harm, for the
32 purposes of this subdivision, may be based on, but is not limited
33 to, deliberate and serious injury inflicted to or on a child's body
34 or the body of a sibling or half sibling of the child by an act or
35 omission of the parent or guardian, or of another individual or
36 animal with the consent of the parent or guardian; deliberate and
37 torturous confinement of the child, sibling, or half sibling in a
38 closed space; or any other torturous act or omission that would be
39 reasonably understood to cause serious emotional damage.

1 ~~(7) That the parent is not receiving reunification services for a~~
2 ~~sibling or a half sibling of the child pursuant to paragraph (3), (5),~~
3 ~~or (6):~~

4 ~~(8) That the child was conceived by means of the commission~~
5 ~~of an offense listed in Section 288 or 288.5 of the Penal Code, or~~
6 ~~by an act committed outside of this state that, if committed in this~~
7 ~~state, would constitute one of those offenses. This paragraph only~~
8 ~~applies to the parent who committed the offense or act.~~

9 ~~(9) That the child has been found to be a child described in~~
10 ~~subdivision (g) of Section 300, that the parent or guardian of the~~
11 ~~child willfully abandoned the child, and the court finds that the~~
12 ~~abandonment itself constituted a serious danger to the child; or~~
13 ~~that the parent or other person having custody of the child~~
14 ~~voluntarily surrendered physical custody of the child pursuant to~~
15 ~~Section 1255.7 of the Health and Safety Code. For the purposes~~
16 ~~of this paragraph, "serious danger" means that without the~~
17 ~~intervention of another person or agency, the child would have~~
18 ~~sustained severe or permanent disability, injury, illness, or death.~~
19 ~~For purposes of this paragraph, "willful abandonment" shall not~~
20 ~~be construed as actions taken in good faith by the parent without~~
21 ~~the intent of placing the child in serious danger.~~

22 ~~(10) That the court ordered termination of reunification services~~
23 ~~for any siblings or half siblings of the child because the parent or~~
24 ~~guardian failed to reunify with the sibling or half sibling after the~~
25 ~~sibling or half sibling had been removed from that parent or~~
26 ~~guardian pursuant to Section 361 and that parent or guardian is~~
27 ~~the same parent or guardian described in subdivision (a) and that,~~
28 ~~according to the findings of the court, this parent or guardian has~~
29 ~~not subsequently made a reasonable effort to treat the problems~~
30 ~~that led to removal of the sibling or half sibling of that child from~~
31 ~~that parent or guardian.~~

32 ~~(11) That the parental rights of a parent over any sibling or half~~
33 ~~sibling of the child had been permanently severed, and this parent~~
34 ~~is the same parent described in subdivision (a), and that, according~~
35 ~~to the findings of the court, this parent has not subsequently made~~
36 ~~a reasonable effort to treat the problems that led to removal of the~~
37 ~~sibling or half sibling of that child from the parent.~~

38 ~~(12) That the parent or guardian of the child has been convicted~~
39 ~~of a violent felony, as defined in subdivision (e) of Section 667.5~~
40 ~~of the Penal Code.~~

~~(13) That the parent or guardian of the child has a history of extensive, abusive, and chronic use of drugs or alcohol and has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brought that child to the court's attention, or has failed or refused to comply with a program of drug or alcohol treatment described in the case plan required by Section 358.1 on at least two prior occasions, even though the programs identified were available and accessible.~~

~~(14) That the parent or guardian of the child has advised the court that he or she is not interested in receiving family maintenance or family reunification services or having the child returned to or placed in his or her custody and does not wish to receive family maintenance or reunification services.~~

~~The parent or guardian shall be represented by counsel and shall execute a waiver of services form to be adopted by the Judicial Council. The court shall advise the parent or guardian of any right to services and of the possible consequences of a waiver of services, including the termination of parental rights and placement of the child for adoption. The court shall not accept the waiver of services unless it states on the record its finding that the parent or guardian has knowingly and intelligently waived the right to services.~~

~~(15) That the parent or guardian has on one or more occasions willfully abducted the child or child's sibling or half sibling from his or her placement and refused to disclose the child's or child's sibling's or half sibling's whereabouts, refused to return physical custody of the child or child's sibling or half sibling to his or her placement, or refused to return physical custody of the child or child's sibling or half sibling to the social worker.~~

~~(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The social worker shall prepare a report that discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within the time limits specified in subdivision (a).~~

1 The court shall not order reunification for a parent or guardian
2 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
3 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
4 and convincing evidence, that reunification is in the best interest
5 of the child.

6 In addition, the court shall not order reunification in any situation
7 described in paragraph (5) of subdivision (b) unless it finds that,
8 based on competent testimony, those services are likely to prevent
9 reabuse or continued neglect of the child or that failure to try
10 reunification will be detrimental to the child because the child is
11 closely and positively attached to that parent. The social worker
12 shall investigate the circumstances leading to the removal of the
13 child and advise the court whether there are circumstances that
14 indicate that reunification is likely to be successful or unsuccessful
15 and whether failure to order reunification is likely to be detrimental
16 to the child.

17 The failure of the parent to respond to previous services, the fact
18 that the child was abused while the parent was under the influence
19 of drugs or alcohol, a past history of violent behavior, or testimony
20 by a competent professional that the parent's behavior is unlikely
21 to be changed by services are among the factors indicating that
22 reunification services are unlikely to be successful. The fact that
23 a parent or guardian is no longer living with an individual who
24 severely abused the child may be considered in deciding that
25 reunification services are likely to be successful, provided that the
26 court shall consider any pattern of behavior on the part of the parent
27 that has exposed the child to repeated abuse.

28 (d) If reunification services are not ordered pursuant to
29 paragraph (1) of subdivision (b) and the whereabouts of a parent
30 become known within six months of the out-of-home placement
31 of the child, the court shall order the social worker to provide
32 family reunification services in accordance with this subdivision.

33 (e) (1) If the parent or guardian is incarcerated or
34 institutionalized, the court shall order reasonable services unless
35 the court determines, by clear and convincing evidence, those
36 services would be detrimental to the child. In determining
37 detriment, the court shall consider the age of the child, the degree
38 of parent-child bonding, the length of the sentence, the length and
39 nature of the treatment, the nature of the crime or illness, the degree
40 of detriment to the child if services are not offered and, for children

1 ~~10 years of age or older, the child's attitude toward the~~
2 ~~implementation of family reunification services, the likelihood of~~
3 ~~the parent's discharge from incarceration or institutionalization~~
4 ~~within the reunification time limitations described in subdivision~~
5 ~~(a), and any other appropriate factors. In determining the content~~
6 ~~of reasonable services, the court shall consider the particular~~
7 ~~barriers to an incarcerated or otherwise institutionalized parent's~~
8 ~~access to those court-mandated services and ability to maintain~~
9 ~~contact with his or her child, and shall document this information~~
10 ~~in the child's case plan. Reunification services are subject to the~~
11 ~~applicable time limitations imposed in subdivision (a). Services~~
12 ~~may include, but shall not be limited to, all of the following:~~

13 ~~(A) Maintaining contact between the parent and child through~~
14 ~~collect telephone calls.~~

15 ~~(B) Transportation services, where appropriate.~~

16 ~~(C) Visitation services, where appropriate.~~

17 ~~(D) Reasonable services to extended family members or foster~~
18 ~~parents providing care for the child if the services are not~~
19 ~~detrimental to the child.~~

20 ~~An incarcerated parent may be required to attend counseling,~~
21 ~~parenting classes, or vocational training programs as part of the~~
22 ~~reunification service plan if actual access to these services is~~
23 ~~provided. The social worker shall document in the child's case~~
24 ~~plan the particular barriers to an incarcerated or institutionalized~~
25 ~~parent's access to those court-mandated services and ability to~~
26 ~~maintain contact with his or her child.~~

27 ~~(2) The presiding judge of the juvenile court of each county~~
28 ~~may convene representatives of the county welfare department,~~
29 ~~the sheriff's department, and other appropriate entities for the~~
30 ~~purpose of developing and entering into protocols for ensuring the~~
31 ~~notification, transportation, and presence of an incarcerated or~~
32 ~~institutionalized parent at all court hearings involving proceedings~~
33 ~~affecting the child pursuant to Section 2625 of the Penal Code.~~
34 ~~The county welfare department shall utilize the prisoner locator~~
35 ~~system developed by the Department of Corrections and~~
36 ~~Rehabilitation to facilitate timely and effective notice of hearings~~
37 ~~for incarcerated parents.~~

38 ~~(3) Notwithstanding any other provision of law, if the~~
39 ~~incarcerated parent is a woman seeking to participate in the~~
40 ~~community treatment program operated by the Department of~~

1 ~~Corrections and Rehabilitation pursuant to Chapter 4.8~~
2 ~~(commencing with Section 1174) of Title 7 of Part 2 of, Chapter~~
3 ~~4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal~~
4 ~~Code, the court shall determine whether the parent's participation~~
5 ~~in a program is in the child's best interest and whether it is suitable~~
6 ~~to meet the needs of the parent and child.~~

7 ~~(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),~~
8 ~~(8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or~~
9 ~~paragraph (1) of subdivision (c), does not order reunification~~
10 ~~services, it shall, at the dispositional hearing, that shall include a~~
11 ~~permanency hearing, determine if a hearing under Section 366.26~~
12 ~~shall be set in order to determine whether adoption, guardianship,~~
13 ~~or long-term foster care is the most appropriate plan for the child,~~
14 ~~and shall consider in-state and out-of-state placement options. If~~
15 ~~the court so determines, it shall conduct the hearing pursuant to~~
16 ~~Section 366.26 within 120 days after the dispositional hearing.~~
17 ~~However, the court shall not schedule a hearing so long as the~~
18 ~~other parent is being provided reunification services pursuant to~~
19 ~~subdivision (a). The court may continue to permit the parent to~~
20 ~~visit the child unless it finds that visitation would be detrimental~~
21 ~~to the child.~~

22 ~~(g) (1) Whenever a court orders that a hearing shall be held~~
23 ~~pursuant to Section 366.26, it shall direct the agency supervising~~
24 ~~the child and the licensed county adoption agency, or the State~~
25 ~~Department of Social Services when it is acting as an adoption~~
26 ~~agency in counties that are not served by a county adoption agency,~~
27 ~~to prepare an assessment that shall include:~~

28 ~~(A) Current search efforts for an absent parent or parents and~~
29 ~~notification of a nonecustodial parent in the manner provided for~~
30 ~~in Section 291.~~

31 ~~(B) A review of the amount of and nature of any contact between~~
32 ~~the child and his or her parents and other members of his or her~~
33 ~~extended family since the time of placement. Although the~~
34 ~~extended family of each child shall be reviewed on a case-by-case~~
35 ~~basis, "extended family" for the purpose of this subparagraph shall~~
36 ~~include, but not be limited to, the child's siblings, grandparents,~~
37 ~~aunts, and uncles.~~

38 ~~(C) An evaluation of the child's medical, developmental,~~
39 ~~scholastic, mental, and emotional status.~~

~~(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, "relative" as used in this section has the same meaning as "relative" as defined in subdivision (c) of Section 11391.~~

~~(E) The relationship of the child to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.~~

~~(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.~~

~~(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal~~

1 of the child from the relative caregiver for purposes of adoptive
2 placement.

3 (B) A relative caregiver shall be given information regarding
4 the permanency options of guardianship and adoption, including
5 the long-term benefits and consequences of each option, prior to
6 establishing legal guardianship or pursuing adoption. If the
7 proposed permanent plan is guardianship with an approved relative
8 caregiver for a minor eligible for aid under the Kin-GAP Program
9 as provided for in Article 4.7 (commencing with Section 11385)
10 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
11 be informed about the terms and conditions of the negotiated
12 agreement pursuant to Section 11387 and shall agree to its
13 execution prior to the hearing held pursuant to Section 366.26. A
14 copy of the executed negotiated agreement shall be attached to the
15 assessment.

16 (h) If, at any hearing held pursuant to Section 366.26, a
17 guardianship is established for the minor with an approved relative
18 caregiver and juvenile court dependency is subsequently dismissed,
19 the minor shall be eligible for aid under the Kin-GAP Program as
20 provided for in Article 4.5 (commencing with Section 11360) or
21 Article 4.7 (commencing with Section 11385), of Chapter 2 of
22 Part 3 of Division 9, as applicable.

23 (i) In determining whether reunification services will benefit
24 the child pursuant to paragraph (6) or (7) of subdivision (b), the
25 court shall consider any information it deems relevant, including
26 the following factors:

27 (1) The specific act or omission comprising the severe sexual
28 abuse or the severe physical harm inflicted on the child or the
29 child's sibling or half sibling.

30 (2) The circumstances under which the abuse or harm was
31 inflicted on the child or the child's sibling or half sibling.

32 (3) The severity of the emotional trauma suffered by the child
33 or the child's sibling or half sibling.

34 (4) Any history of abuse of other children by the offending
35 parent or guardian.

36 (5) The likelihood that the child may be safely returned to the
37 care of the offending parent or guardian within 12 months with no
38 continuing supervision.

39 (6) Whether or not the child desires to be reunified with the
40 offending parent or guardian.

~~(j) When the court determines that reunification services will not be ordered, it shall order that the child's caregiver receive the child's birth certificate in accordance with Sections 16010.4 and 16010.5. Additionally, when the court determines that reunification services will not be ordered, it shall order, when appropriate, that a child who is 16 years of age or older receive his or her birth certificate.~~

~~(k) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.~~

~~(l) This section shall become operative on January 1, 2014.~~

SEC. 16. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, *or when a court adjudicates a petition under Section 329 to modify the court's jurisdiction from delinquency jurisdiction to dependency jurisdiction pursuant to subparagraph (A) of paragraph (2) of subdivision (b) of Section 607.2 and the parents or guardian of the ward have had reunification services terminated under the delinquency jurisdiction*, whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child.

(1) Family reunification services, when provided, shall be provided as follows:

(A) Except as otherwise provided in subparagraph (C), for a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall be provided beginning with the

1 dispositional hearing and ending 12 months after the date the child
2 entered foster care as defined in Section 361.49, unless the child
3 is returned to the home of the parent or guardian.

4 (B) For a child who, on the date of initial removal from the
5 physical custody of his or her parent or guardian, was under three
6 years of age, court-ordered services shall be provided for a period
7 of six months from the dispositional hearing as provided in
8 subdivision (e) of Section 366.21, but no longer than 12 months
9 from the date the child entered foster care as defined in Section
10 361.49 unless the child is returned to the home of the parent or
11 guardian.

12 (C) For the purpose of placing and maintaining a sibling group
13 together in a permanent home should reunification efforts fail, for
14 a child in a sibling group whose members were removed from
15 parental custody at the same time, and in which one member of
16 the sibling group was under three years of age on the date of initial
17 removal from the physical custody of his or her parent or guardian,
18 court-ordered services for some or all of the sibling group may be
19 limited as set forth in subparagraph (B). For the purposes of this
20 paragraph, “a sibling group” shall mean two or more children who
21 are related to each other as full or half siblings.

22 (2) Any motion to terminate court-ordered reunification services
23 prior to the hearing set pursuant to subdivision (f) of Section 366.21
24 for a child described by subparagraph (A) of paragraph (1), or
25 prior to the hearing set pursuant to subdivision (e) of Section
26 366.21 for a child described by subparagraph (B) or (C) of
27 paragraph (1), shall be made pursuant to the requirements set forth
28 in subdivision (c) of Section 388. A motion to terminate
29 court-ordered reunification services shall not be required at the
30 hearing set pursuant to subdivision (e) of Section 366.21 if the
31 court finds by clear and convincing evidence one of the following:

32 (A) That the child was removed initially under subdivision (g)
33 of Section 300 and the whereabouts of the parent are still unknown.

34 (B) That the parent has failed to contact and visit the child.

35 (C) That the parent has been convicted of a felony indicating
36 parental unfitness.

37 (3) Notwithstanding subparagraphs (A), (B), and (C) of
38 paragraph (1), court-ordered services may be extended up to a
39 maximum time period not to exceed 18 months after the date the
40 child was originally removed from physical custody of his or her

parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, or parent or parents court-ordered to a residential substance abuse treatment program, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

In cases where the child was under three years of age on the date of the initial removal from the physical custody of his or her parent

1 or guardian or is a member of a sibling group as described in
2 subparagraph (C) of paragraph (1), the court shall inform the parent
3 or guardian that the failure of the parent or guardian to participate
4 regularly in any court-ordered treatment programs or to cooperate
5 or avail himself or herself of services provided as part of the child
6 welfare services case plan may result in a termination of efforts
7 to reunify the family after six months. The court shall inform the
8 parent or guardian of the factors used in subdivision (e) of Section
9 366.21 to determine whether to limit services to six months for
10 some or all members of a sibling group as described in
11 subparagraph (C) of paragraph (1).

12 (4) Notwithstanding paragraph (3), court-ordered services may
13 be extended up to a maximum time period not to exceed 24 months
14 after the date the child was originally removed from physical
15 custody of his or her parent or guardian if it is shown, at the hearing
16 held pursuant to subdivision (b) of Section 366.22, that the
17 permanent plan for the child is that he or she will be returned and
18 safely maintained in the home within the extended time period.
19 The court shall extend the time period only if it finds that it is in
20 the child's best interest to have the time period extended and that
21 there is a substantial probability that the child will be returned to
22 the physical custody of his or her parent or guardian who is
23 described in subdivision (b) of Section 366.22 within the extended
24 time period, or that reasonable services have not been provided to
25 the parent or guardian. If the court extends the time period, the
26 court shall specify the factual basis for its conclusion that there is
27 a substantial probability that the child will be returned to the
28 physical custody of his or her parent or guardian within the
29 extended time period. The court also shall make findings pursuant
30 to subdivision (a) of Section 366 and subdivision (e) of Section
31 358.1.

32 When counseling or other treatment services are ordered, the
33 parent or guardian shall be ordered to participate in those services,
34 in order for substantial probability to be found. Physical custody
35 of the child by the parents or guardians during the applicable time
36 period under subparagraph (A), (B), or (C) of paragraph (1) shall
37 not serve to interrupt the running of the period. If at the end of the
38 applicable time period, the child cannot be safely returned to the
39 care and custody of a parent or guardian without court supervision,
40 but the child clearly desires contact with the parent or guardian,

1 the court shall take the child's desire into account in devising a
2 permanency plan.

3 Except in cases where, pursuant to subdivision (b), the court
4 does not order reunification services, the court shall inform the
5 parent or parents of Section 366.26 and shall specify that the
6 parent's or parents' parental rights may be terminated.

7 (b) Reunification services need not be provided to a parent or
8 guardian described in this subdivision when the court finds, by
9 clear and convincing evidence, any of the following:

10 (1) That the whereabouts of the parent or guardian is unknown.
11 A finding pursuant to this paragraph shall be supported by an
12 affidavit or by proof that a reasonably diligent search has failed
13 to locate the parent or guardian. The posting or publication of
14 notices is not required in that search.

15 (2) That the parent or guardian is suffering from a mental
16 disability that is described in Chapter 2 (commencing with Section
17 7820) of Part 4 of Division 12 of the Family Code and that renders
18 him or her incapable of utilizing those services.

19 (3) That the child or a sibling of the child has been previously
20 adjudicated a dependent pursuant to any subdivision of Section
21 300 as a result of physical or sexual abuse, that following that
22 adjudication the child had been removed from the custody of his
23 or her parent or guardian pursuant to Section 361, that the child
24 has been returned to the custody of the parent or guardian from
25 whom the child had been taken originally, and that the child is
26 being removed pursuant to Section 361, due to additional physical
27 or sexual abuse.

28 (4) That the parent or guardian of the child has caused the death
29 of another child through abuse or neglect.

30 (5) That the child was brought within the jurisdiction of the
31 court under subdivision (e) of Section 300 because of the conduct
32 of that parent or guardian.

33 (6) That the child has been adjudicated a dependent pursuant
34 to any subdivision of Section 300 as a result of severe sexual abuse
35 or the infliction of severe physical harm to the child, a sibling, or
36 a half sibling by a parent or guardian, as defined in this subdivision,
37 and the court makes a factual finding that it would not benefit the
38 child to pursue reunification services with the offending parent or
39 guardian.

1 A finding of severe sexual abuse, for the purposes of this
2 subdivision, may be based on, but is not limited to, sexual
3 intercourse, or stimulation involving genital-genital, oral-genital,
4 anal-genital, or oral-anal contact, whether between the parent or
5 guardian and the child or a sibling or half sibling of the child, or
6 between the child or a sibling or half sibling of the child and
7 another person or animal with the actual or implied consent of the
8 parent or guardian; or the penetration or manipulation of the
9 child's, sibling's, or half sibling's genital organs or rectum by any
10 animate or inanimate object for the sexual gratification of the
11 parent or guardian, or for the sexual gratification of another person
12 with the actual or implied consent of the parent or guardian.

13 A finding of the infliction of severe physical harm, for the
14 purposes of this subdivision, may be based on, but is not limited
15 to, deliberate and serious injury inflicted to or on a child's body
16 or the body of a sibling or half sibling of the child by an act or
17 omission of the parent or guardian, or of another individual or
18 animal with the consent of the parent or guardian; deliberate and
19 torturous confinement of the child, sibling, or half sibling in a
20 closed space; or any other torturous act or omission that would be
21 reasonably understood to cause serious emotional damage.

22 (7) That the parent is not receiving reunification services for a
23 sibling or a half sibling of the child pursuant to paragraph (3), (5),
24 or (6).

25 (8) That the child was conceived by means of the commission
26 of an offense listed in Section 288 or 288.5 of the Penal Code, or
27 by an act committed outside of this state that, if committed in this
28 state, would constitute one of those offenses. This paragraph only
29 applies to the parent who committed the offense or act.

30 (9) That the child has been found to be a child described in
31 subdivision (g) of Section 300; that the parent or guardian of the
32 child willfully abandoned the child, and the court finds that the
33 abandonment itself constituted a serious danger to the child; or
34 that the parent or other person having custody of the child
35 voluntarily surrendered physical custody of the child pursuant to
36 Section 1255.7 of the Health and Safety Code. For the purposes
37 of this paragraph, "serious danger" means that without the
38 intervention of another person or agency, the child would have
39 sustained severe or permanent disability, injury, illness, or death.
40 For purposes of this paragraph, "willful abandonment" shall not

1 be construed as actions taken in good faith by the parent without
2 the intent of placing the child in serious danger.

3 (10) That the court ordered termination of reunification services
4 for any siblings or half siblings of the child because the parent or
5 guardian failed to reunify with the sibling or half sibling after the
6 sibling or half sibling had been removed from that parent or
7 guardian pursuant to Section 361 and that parent or guardian is
8 the same parent or guardian described in subdivision (a) and that,
9 according to the findings of the court, this parent or guardian has
10 not subsequently made a reasonable effort to treat the problems
11 that led to removal of the sibling or half sibling of that child from
12 that parent or guardian.

13 (11) That the parental rights of a parent over any sibling or half
14 sibling of the child had been permanently severed, and this parent
15 is the same parent described in subdivision (a), and that, according
16 to the findings of the court, this parent has not subsequently made
17 a reasonable effort to treat the problems that led to removal of the
18 sibling or half sibling of that child from the parent.

19 (12) That the parent or guardian of the child has been convicted
20 of a violent felony, as defined in subdivision (c) of Section 667.5
21 of the Penal Code.

22 (13) That the parent or guardian of the child has a history of
23 extensive, abusive, and chronic use of drugs or alcohol and has
24 resisted prior court-ordered treatment for this problem during a
25 three-year period immediately prior to the filing of the petition
26 that brought that child to the court's attention, or has failed or
27 refused to comply with a program of drug or alcohol treatment
28 described in the case plan required by Section 358.1 on at least
29 two prior occasions, even though the programs identified were
30 available and accessible.

31 (14) That the parent or guardian of the child has advised the
32 court that he or she is not interested in receiving family
33 maintenance or family reunification services or having the child
34 returned to or placed in his or her custody and does not wish to
35 receive family maintenance or reunification services.

36 The parent or guardian shall be represented by counsel and shall
37 execute a waiver of services form to be adopted by the Judicial
38 Council. The court shall advise the parent or guardian of any right
39 to services and of the possible consequences of a waiver of
40 services, including the termination of parental rights and placement

1 of the child for adoption. The court shall not accept the waiver of
2 services unless it states on the record its finding that the parent or
3 guardian has knowingly and intelligently waived the right to
4 services.

5 (15) That the parent or guardian has on one or more occasions
6 willfully abducted the child or child's sibling or half sibling from
7 his or her placement and refused to disclose the child's or child's
8 sibling's or half sibling's whereabouts, refused to return physical
9 custody of the child or child's sibling or half sibling to his or her
10 placement, or refused to return physical custody of the child or
11 child's sibling or half sibling to the social worker.

12 (c) In deciding whether to order reunification in any case in
13 which this section applies, the court shall hold a dispositional
14 hearing. The social worker shall prepare a report that discusses
15 whether reunification services shall be provided. When it is alleged,
16 pursuant to paragraph (2) of subdivision (b), that the parent is
17 incapable of utilizing services due to mental disability, the court
18 shall order reunification services unless competent evidence from
19 mental health professionals establishes that, even with the provision
20 of services, the parent is unlikely to be capable of adequately caring
21 for the child within the time limits specified in subdivision (a).

22 The court shall not order reunification for a parent or guardian
23 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
24 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
25 and convincing evidence, that reunification is in the best interest
26 of the child.

27 In addition, the court shall not order reunification in any situation
28 described in paragraph (5) of subdivision (b) unless it finds that,
29 based on competent testimony, those services are likely to prevent
30 reabuse or continued neglect of the child or that failure to try
31 reunification will be detrimental to the child because the child is
32 closely and positively attached to that parent. The social worker
33 shall investigate the circumstances leading to the removal of the
34 child and advise the court whether there are circumstances that
35 indicate that reunification is likely to be successful or unsuccessful
36 and whether failure to order reunification is likely to be detrimental
37 to the child.

38 The failure of the parent to respond to previous services, the fact
39 that the child was abused while the parent was under the influence
40 of drugs or alcohol, a past history of violent behavior, or testimony

1 by a competent professional that the parent's behavior is unlikely
2 to be changed by services are among the factors indicating that
3 reunification services are unlikely to be successful. The fact that
4 a parent or guardian is no longer living with an individual who
5 severely abused the child may be considered in deciding that
6 reunification services are likely to be successful, provided that the
7 court shall consider any pattern of behavior on the part of the parent
8 that has exposed the child to repeated abuse.

9 (d) If reunification services are not ordered pursuant to
10 paragraph (1) of subdivision (b) and the whereabouts of a parent
11 become known within six months of the out-of-home placement
12 of the child, the court shall order the social worker to provide
13 family reunification services in accordance with this subdivision.

14 (e) (1) If the parent or guardian is incarcerated or
15 institutionalized, the court shall order reasonable services unless
16 the court determines, by clear and convincing evidence, those
17 services would be detrimental to the child. In determining
18 detriment, the court shall consider the age of the child, the degree
19 of parent-child bonding, the length of the sentence, the length and
20 nature of the treatment, the nature of the crime or illness, the degree
21 of detriment to the child if services are not offered and, for children
22 10 years of age or older, the child's attitude toward the
23 implementation of family reunification services, the likelihood of
24 the parent's discharge from incarceration or institutionalization
25 within the reunification time limitations described in subdivision
26 (a), and any other appropriate factors. In determining the content
27 of reasonable services, the court shall consider the particular
28 barriers to an incarcerated or otherwise institutionalized parent's
29 access to those court-mandated services and ability to maintain
30 contact with his or her child, and shall document this information
31 in the child's case plan. Reunification services are subject to the
32 applicable time limitations imposed in subdivision (a). Services
33 may include, but shall not be limited to, all of the following:

34 (A) Maintaining contact between the parent and child through
35 collect telephone calls.

36 (B) Transportation services, where appropriate.

37 (C) Visitation services, where appropriate.

38 (D) Reasonable services to extended family members or foster
39 parents providing care for the child if the services are not
40 detrimental to the child.

1 An incarcerated parent may be required to attend counseling,
2 parenting classes, or vocational training programs as part of the
3 reunification service plan if actual access to these services is
4 provided. The social worker shall document in the child's case
5 plan the particular barriers to an incarcerated or institutionalized
6 parent's access to those court-mandated services and ability to
7 maintain contact with his or her child.

8 (2) The presiding judge of the juvenile court of each county
9 may convene representatives of the county welfare department,
10 the sheriff's department, and other appropriate entities for the
11 purpose of developing and entering into protocols for ensuring the
12 notification, transportation, and presence of an incarcerated or
13 institutionalized parent at all court hearings involving proceedings
14 affecting the child pursuant to Section 2625 of the Penal Code.
15 The county welfare department shall utilize the prisoner locator
16 system developed by the Department of Corrections and
17 Rehabilitation to facilitate timely and effective notice of hearings
18 for incarcerated parents.

19 (3) Notwithstanding any other provision of law, if the
20 incarcerated parent is a woman seeking to participate in the
21 community treatment program operated by the Department of
22 Corrections and Rehabilitation pursuant to Chapter 4.8
23 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
24 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
25 Code, the court shall determine whether the parent's participation
26 in a program is in the child's best interest and whether it is suitable
27 to meet the needs of the parent and child.

28 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
29 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
30 paragraph (1) of subdivision (e), does not order reunification
31 services, it shall, at the dispositional hearing, that shall include a
32 permanency hearing, determine if a hearing under Section 366.26
33 shall be set in order to determine whether adoption, guardianship,
34 or long-term foster care, or in the case of an Indian child, in
35 consultation with the child's tribe, tribal customary adoption, is
36 the most appropriate plan for the child, and shall consider in-state
37 and out-of-state placement options. If the court so determines, it
38 shall conduct the hearing pursuant to Section 366.26 within 120
39 days after the dispositional hearing. However, the court shall not
40 schedule a hearing so long as the other parent is being provided

1 reunification services pursuant to subdivision (a). The court may
2 continue to permit the parent to visit the child unless it finds that
3 visitation would be detrimental to the child.

4 (g) (1) Whenever a court orders that a hearing shall be held
5 pursuant to Section 366.26, including, when, in consultation with
6 the child's tribe, tribal customary adoption is recommended, it
7 shall direct the agency supervising the child and the county
8 adoption agency, or the State Department of Social Services when
9 it is acting as an adoption agency, to prepare an assessment that
10 shall include:

11 (A) Current search efforts for an absent parent or parents and
12 notification of a noncustodial parent in the manner provided for
13 in Section 291.

14 (B) A review of the amount of and nature of any contact between
15 the child and his or her parents and other members of his or her
16 extended family since the time of placement. Although the
17 extended family of each child shall be reviewed on a case-by-case
18 basis, "extended family" for the purpose of this subparagraph shall
19 include, but not be limited to, the child's siblings, grandparents,
20 aunts, and uncles.

21 (C) An evaluation of the child's medical, developmental,
22 scholastic, mental, and emotional status.

23 (D) A preliminary assessment of the eligibility and commitment
24 of any identified prospective adoptive parent or guardian, including
25 a prospective tribal customary adoptive parent, particularly the
26 caretaker, to include a social history, including screening for
27 criminal records and prior referrals for child abuse or neglect, the
28 capability to meet the child's needs, and the understanding of the
29 legal and financial rights and responsibilities of adoption and
30 guardianship. If a proposed guardian is a relative of the minor, the
31 assessment shall also consider, but need not be limited to, all of
32 the factors specified in subdivision (a) of Section 361.3 and in
33 Section 361.4. As used in this subparagraph, "relative" means an
34 adult who is related to the minor by blood, adoption, or affinity
35 within the fifth degree of kinship, including stepparents,
36 stepsiblings, and all relatives whose status is preceded by the words
37 "great," "great-great," or "grand," or the spouse of any of those
38 persons even if the marriage was terminated by death or
39 dissolution. *If the proposed permanent plan is guardianship with*
40 *an approved relative caregiver for a minor eligible for aid under*

1 *the Kin-GAP Program, as provided for in Article 4.7 (commencing*
2 *with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative”*
3 *as used in this section has the same meaning as “relative” as*
4 *defined in subdivision (c) of Section 11391.*

5 (E) The relationship of the child to any identified prospective
6 adoptive parent or guardian, including a prospective tribal
7 customary parent, the duration and character of the relationship,
8 the degree of attachment of the child to the prospective relative
9 guardian or adoptive parent, the relative’s or adoptive parent’s
10 strong commitment to caring permanently for the child, the
11 motivation for seeking adoption or guardianship, a statement from
12 the child concerning placement and the adoption or guardianship,
13 and whether the child over 12 years of age has been consulted
14 about the proposed relative guardianship arrangements, unless the
15 child’s age or physical, emotional, or other condition precludes
16 his or her meaningful response, and if so, a description of the
17 condition.

18 (F) An analysis of the likelihood that the child will be adopted
19 if parental rights are terminated.

20 (G) In the case of an Indian child, in addition to subparagraphs
21 (A) to (F), inclusive, an assessment of the likelihood that the child
22 will be adopted, when, in consultation with the child’s tribe, a
23 tribal customary adoption, as defined in Section 366.24, is
24 recommended. If tribal customary adoption is recommended, the
25 assessment shall include an analysis of both of the following:

26 (i) Whether tribal customary adoption would or would not be
27 detrimental to the Indian child and the reasons for reaching that
28 conclusion.

29 (ii) Whether the Indian child cannot or should not be returned
30 to the home of the Indian parent or Indian custodian and the reasons
31 for reaching that conclusion.

32 (2) (A) A relative caregiver’s preference for legal guardianship
33 over adoption, if it is due to circumstances that do not include an
34 unwillingness to accept legal or financial responsibility for the
35 child, shall not constitute the sole basis for recommending removal
36 of the child from the relative caregiver for purposes of adoptive
37 placement.

38 (B) A relative caregiver shall be given information regarding
39 the permanency options of guardianship and adoption, including
40 the long-term benefits and consequences of each option, prior to

1 establishing legal guardianship or pursuing adoption. *If the*
2 *proposed permanent plan is guardianship with an approved*
3 *relative caregiver for a minor eligible for aid under the Kin-GAP*
4 *Program, as provided for in Article 4.7 (commencing with Section*
5 *11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver*
6 *shall be informed about the terms and conditions of the negotiated*
7 *agreement pursuant to Section 11387 and shall agree to its*
8 *execution prior to the hearing held pursuant to Section 366.26. A*
9 *copy of the executed negotiated agreement shall be attached to*
10 *the assessment.*

11 (h) If, at any hearing held pursuant to Section 366.26, a
12 guardianship is established for the minor with an approved relative
13 caregiver and juvenile court dependency is subsequently dismissed,
14 the minor shall be eligible for aid under the Kin-GAP Program as
15 provided for in Article 4.5 (commencing with Section 11360) or
16 Article 4.7 (commencing with Section 11385) of Chapter 2 of *Part*
17 *3 of Division 9*, as applicable.

18 (i) In determining whether reunification services will benefit
19 the child pursuant to paragraph (6) or (7) of subdivision (b), the
20 court shall consider any information it deems relevant, including
21 the following factors:

22 (1) The specific act or omission comprising the severe sexual
23 abuse or the severe physical harm inflicted on the child or the
24 child's sibling or half sibling.

25 (2) The circumstances under which the abuse or harm was
26 inflicted on the child or the child's sibling or half sibling.

27 (3) The severity of the emotional trauma suffered by the child
28 or the child's sibling or half sibling.

29 (4) Any history of abuse of other children by the offending
30 parent or guardian.

31 (5) The likelihood that the child may be safely returned to the
32 care of the offending parent or guardian within 12 months with no
33 continuing supervision.

34 (6) Whether or not the child desires to be reunified with the
35 offending parent or guardian.

36 (j) When the court determines that reunification services will
37 not be ordered, it shall order that the child's caregiver receive the
38 child's birth certificate in accordance with Sections 16010.4 and
39 16010.5. Additionally, when the court determines that reunification
40 services will not be ordered, it shall order, when appropriate, that

1 a child who is 16 years of age or older receive his or her birth
2 certificate.

3 (k) The court shall read into the record the basis for a finding
4 of severe sexual abuse or the infliction of severe physical harm
5 under paragraph (6) of subdivision (b), and shall also specify the
6 factual findings used to determine that the provision of
7 reunification services to the offending parent or guardian would
8 not benefit the child.

9 ~~SEC. 16.~~

10 *SEC. 17.* Section 361.6 is added to the Welfare and Institutions
11 Code, to read:

12 361.6. (a) Notwithstanding any other law, the court may order
13 family reunification services to continue for a nonminor dependent,
14 as defined in subdivision (v) of Section 11400, if the nonminor
15 dependent and parent, parents, or legal guardian are in agreement
16 and the court finds that the continued provision of court-ordered
17 family reunification services is in the best interests of the nonminor
18 dependent and there is a substantial probability that the nonminor
19 dependent will be able to safely reside in the home of the parent
20 or guardian by the next review hearing. The continuation of the
21 court-ordered reunification services shall not exceed the timeframes
22 as set forth in Section 361.5. If the nonminor dependent or parent,
23 parents, or legal guardian are not in agreement, or the court finds
24 there is not a substantial probability that the nonminor will be able
25 to safely reside in the home of the parent or guardian, the court
26 shall terminate family reunification services to the parents or
27 guardian. The nonminor dependent's legal status as an adult is, in
28 and of itself, a compelling reason not to hold a hearing pursuant
29 to Section 366.26. The court may order that a nonminor dependent
30 who is otherwise eligible for AFDC-FC benefits pursuant to
31 Section 11403 remain in a planned, permanent living arrangement.

32 (b) Any motion to terminate court-ordered family reunification
33 services for a nonminor dependent prior to the hearing set pursuant
34 to Section 366.31 shall be made pursuant to subdivision (c) of
35 Section 388.

36 (c) An order terminating court-ordered family reunification
37 services under this section shall *not* be considered evidence of a
38 condition required for the filing of a petition to terminate a parent's
39 or legal guardian's court-ordered family reunification services

1 with the nonminor dependent's sibling or half-sibling under
2 subdivision (c) of Section 388.

3 (d) An order terminating court-ordered family reunification
4 services under this section shall not be used to deny family
5 reunification services to a parent or legal guardian for a nonminor
6 dependent's sibling or half-sibling under subdivision (b) of Section
7 361.5.

8 (e) The continuation of court-ordered family reunification
9 services under this section does not affect the nonminor's eligibility
10 for extended foster care benefits as a nonminor dependent as
11 defined in subdivision (v) of Section 11400. The reviews conducted
12 for any nonminor dependent shall be held pursuant to Section
13 366.31.

14 ~~SEC. 17.~~

15 *SEC. 18.* Section 362.5 is added to the Welfare and Institutions
16 Code, to read:

17 362.5. (a) The clerk of the superior court shall open a separate
18 court file for nonminor dependents under the dependency,
19 delinquency, or transition jurisdiction of the court.

20 (b) Access to the nonminor dependent court file shall be limited
21 to all of the following:

22 (1) Court personnel.

23 (2) The district attorney, if the nonminor dependent is also a
24 delinquent ward.

25 (3) The nonminor dependent.

26 (4) The attorney for the nonminor dependent.

27 (5) Judges, referees, and other hearing officers actively
28 participating in juvenile proceedings involving the nonminor
29 dependent.

30 (6) The social services agency or probation department.

31 (7) The State Department of Social Services, to carry out its
32 duties pursuant to Division 9 (commencing with Section 10000),
33 and Part 5 (commencing with Section 7900) of Division 12 of the
34 Family Code, to oversee and monitor county child welfare
35 agencies, children in foster care or receiving foster care assistance;
36 and out-of-state placements, Section 10850.4, and pursuant to
37 Section 2.

38 (8) The county counsel.

39 (9) *Authorized legal staff or special investigators who are peace*
40 *officers who are employed by, or who are authorized*

1 *representatives of, the State Department of Social Services, as*
2 *necessary for the performance of their duties to inspect, license,*
3 *and investigate community care facilities, to ensure that the*
4 *standards of care and services provided in those facilities are*
5 *adequate and appropriate, and to ascertain compliance with the*
6 *rules and regulations to which the facilities are subject. The*
7 *confidential information shall remain confidential except for*
8 *purposes of inspection, licensing, or investigation pursuant to*
9 *Chapter 3 (commencing with Section 1500) and Chapter 3.4*
10 *(commencing with Section 1596.70) of Division 2 of the Health*
11 *and Safety Code, or a criminal, civil, or administrative proceeding*
12 *in relation thereto. The confidential information may be used by*
13 *the State Department of Social Services in a criminal, civil, or*
14 *administrative proceeding. The confidential information shall be*
15 *available only to the judge or hearing officer and to the parties to*
16 *the case. Names that are confidential shall be listed in attachments*
17 *separate from the general pleadings. The confidential information*
18 *shall be sealed after the conclusion of the criminal, civil, or*
19 *administrative hearings, and may not subsequently be released,*
20 *except in accordance with this subdivision. If the confidential*
21 *information does not result in a criminal, civil, or administrative*
22 *proceeding, it shall be sealed after the State Department of Social*
23 *Services decides that no further action will be taken in the matter*
24 *of suspected licensing violations. Except as otherwise provided in*
25 *this subdivision, confidential information in the possession of the*
26 *State Department of Social Services may not contain the name of*
27 *the nonminor dependent.*

28 (c) The nonminor dependent's parent and the parent's attorney
29 may only access the file if the parent is still receiving reunification
30 services.

31 (d) All other individuals requesting access to the court file must
32 be designated by court order of the judge of the juvenile court upon
33 filing a petition, which shall be determined pursuant to Section
34 827.

35 ~~SEC. 18.~~

36 SEC. 19. Section 366 of the Welfare and Institutions Code is
37 amended to read:

38 366. (a) (1) The status of every dependent child in foster care
39 shall be reviewed periodically as determined by the court but no
40 less frequently than once every six months, as calculated from the

1 date of the original dispositional hearing, until the hearing
2 described in Section 366.26 is completed. The court shall consider
3 the safety of the child and shall determine all of the following:

4 (A) The continuing necessity for and appropriateness of the
5 placement.

6 (B) The extent of the agency's compliance with the case plan
7 in making reasonable efforts, or, in the case of an Indian child,
8 active efforts as described in Section 361.7, to return the child to
9 a safe home and to complete any steps necessary to finalize the
10 permanent placement of the child, including efforts to maintain
11 relationships between a child who is 10 years of age or older and
12 who has been in an out-of-home placement for six months or
13 longer, and individuals other than the child's siblings who are
14 important to the child, consistent with the child's best interests.

15 (C) Whether there should be any limitation on the right of the
16 parent or guardian to make educational decisions *or developmental*
17 *services decisions* for the child. That limitation shall be specifically
18 addressed in the court order and may not exceed those necessary
19 to protect the child. Whenever the court specifically limits the right
20 of the parent or guardian to make educational decisions *or*
21 *developmental services decisions* for the child, the court shall at
22 the same time appoint a responsible adult to make educational
23 decisions for the child pursuant to Section 361.

24 (D) (i) Whether the child has other siblings under the court's
25 jurisdiction, and, if any siblings exist, all of the following:

26 (I) The nature of the relationship between the child and his or
27 her siblings.

28 (II) The appropriateness of developing or maintaining the sibling
29 relationships pursuant to Section 16002.

30 (III) If the siblings are not placed together in the same home,
31 why the siblings are not placed together and what efforts are being
32 made to place the siblings together, or why those efforts are not
33 appropriate.

34 (IV) If the siblings are not placed together, the frequency and
35 nature of the visits between siblings.

36 (V) The impact of the sibling relationships on the child's
37 placement and planning for legal permanence.

38 (VI) The continuing need to suspend sibling interaction, if
39 applicable, pursuant to subdivision (c) of Section 16002.

(ii) The factors the court may consider in making a determination regarding the nature of the child's sibling relationships may include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(E) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.

(F) If the review hearing is the last review hearing to be held before the child attains 18 years of age, the court shall conduct the hearing pursuant to Section 366.31 or 366.32.

(2) The court shall project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption, legal guardianship, or in another planned permanent living arrangement.

(b) Subsequent to the hearing, periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

(c) If the child has been placed out of state, each review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interests of the child.

(d) A child may not be placed in an out-of-state group home, or remain in an out-of-state group home, unless the group home is in compliance with Section 7911.1 of the Family Code.

(e) The implementation and operation of the amendments to subparagraph (B) of paragraph (1) of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(f) The status review of every nonminor dependent, as defined in subdivision (v) of Section 11400, shall be conducted pursuant to Sections 366.3, 366.31, or 366.32, and 16503 until dependency jurisdiction is terminated pursuant to Section 391.

~~SEC. 19. Section 366.21 of the Welfare and Institutions Code, as amended by Section 3 of Chapter 59 of the Statutes of 2011, is amended to read:~~

1 ~~366.21.— (a) Every hearing conducted by the juvenile court~~
2 ~~reviewing the status of a dependent child shall be placed on the~~
3 ~~appearance calendar. The court shall advise all persons present at~~
4 ~~the hearing of the date of the future hearing and of their right to~~
5 ~~be present and represented by counsel.~~

6 ~~(b) Except as provided in Sections 294 and 295, notice of the~~
7 ~~hearing shall be provided pursuant to Section 293.~~

8 ~~(c) At least 10 calendar days prior to the hearing, the social~~
9 ~~worker shall file a supplemental report with the court regarding~~
10 ~~the services provided or offered to the parent or legal guardian to~~
11 ~~enable him or her to assume custody and the efforts made to~~
12 ~~achieve legal permanence for the child if efforts to reunify fail,~~
13 ~~including, but not limited to, efforts to maintain relationships~~
14 ~~between a child who is 10 years of age or older and has been in~~
15 ~~out-of-home placement for six months or longer and individuals~~
16 ~~who are important to the child, consistent with the child's best~~
17 ~~interests; the progress made; and, where relevant, the prognosis~~
18 ~~for return of the child to the physical custody of his or her parent~~
19 ~~or legal guardian; and shall make his or her recommendation for~~
20 ~~disposition. If the child is a member of a sibling group described~~
21 ~~in subparagraph (C) of paragraph (1) of subdivision (a) of Section~~
22 ~~361.5, the report and recommendation may also take into account~~
23 ~~those factors described in subdivision (e) relating to the child's~~
24 ~~sibling group. If the recommendation is not to return the child to~~
25 ~~a parent or legal guardian, the report shall specify why the return~~
26 ~~of the child would be detrimental to the child. The social worker~~
27 ~~shall provide the parent or legal guardian, counsel for the child,~~
28 ~~and any court-appointed child advocate with a copy of the report,~~
29 ~~including his or her recommendation for disposition, at least 10~~
30 ~~calendar days prior to the hearing. In the case of a child removed~~
31 ~~from the physical custody of his or her parent or legal guardian,~~
32 ~~the social worker shall, at least 10 calendar days prior to the~~
33 ~~hearing, provide a summary of his or her recommendation for~~
34 ~~disposition to any foster parents, relative caregivers, and certified~~
35 ~~foster parents who have been approved for adoption by the State~~
36 ~~Department of Social Services when it is acting as an adoption~~
37 ~~agency in counties that are not served by a county adoption agency~~
38 ~~or by a licensed county adoption agency, community care facility,~~
39 ~~or foster family agency having the physical custody of the child.~~
40 ~~The social worker shall include a copy of the Judicial Council~~

1 Caregiver Information Form (JV-290) with the summary of
2 recommendations to the child's foster parents, relative caregivers,
3 or foster parents approved for adoption, in the caregiver's primary
4 language when available, along with information on how to file
5 the form with the court.

6 (d) Prior to any hearing involving a child in the physical custody
7 of a community care facility or a foster family agency that may
8 result in the return of the child to the physical custody of his or
9 her parent or legal guardian, or in adoption or the creation of a
10 legal guardianship, or in the case of an Indian child, in consultation
11 with the child's tribe, tribal customary adoption, the facility or
12 agency shall file with the court a report, or a Judicial Council
13 Caregiver Information Form (JV-290), containing its
14 recommendation for disposition. Prior to the hearing involving a
15 child in the physical custody of a foster parent, a relative caregiver,
16 or a certified foster parent who has been approved for adoption by
17 the State Department of Social Services when it is acting as an
18 adoption agency or by a licensed adoption agency, the foster parent,
19 relative caregiver, or the certified foster parent who has been
20 approved for adoption by the State Department of Social Services
21 when it is acting as an adoption agency in counties that are not
22 served by a county adoption agency or by a licensed county
23 adoption agency, may file with the court a report containing his
24 or her recommendation for disposition. The court shall consider
25 the report and recommendation filed pursuant to this subdivision
26 prior to determining any disposition.

27 (e) At the review hearing held six months after the initial
28 dispositional hearing, but no later than 12 months after the date
29 the child entered foster care as determined in Section 361.49,
30 whichever occurs earlier, the court shall order the return of the
31 child to the physical custody of his or her parent or legal guardian
32 unless the court finds, by a preponderance of the evidence, that
33 the return of the child to his or her parent or legal guardian would
34 create a substantial risk of detriment to the safety, protection, or
35 physical or emotional well-being of the child. The social worker
36 shall have the burden of establishing that detriment. At the hearing,
37 the court shall consider the criminal history, obtained pursuant to
38 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
39 or legal guardian subsequent to the child's removal to the extent
40 that the criminal record is substantially related to the welfare of

1 the child or the parent's or guardian's ability to exercise custody
2 and control regarding his or her child, provided the parent or legal
3 guardian agreed to submit fingerprint images to obtain criminal
4 history information as part of the case plan. The failure of the
5 parent or legal guardian to participate regularly and make
6 substantive progress in court-ordered treatment programs shall be
7 prima facie evidence that return would be detrimental. In making
8 its determination, the court shall review and consider the social
9 worker's report and recommendations and the report and
10 recommendations of any child advocate appointed pursuant to
11 Section 356.5; and shall consider the efforts or progress, or both,
12 demonstrated by the parent or legal guardian and the extent to
13 which he or she availed himself or herself to services provided;
14 taking into account the particular barriers to an incarcerated or
15 institutionalized parent or legal guardian's access to those
16 court-mandated services and ability to maintain contact with his
17 or her child.

18 Regardless of whether the child is returned to a parent or legal
19 guardian, the court shall specify the factual basis for its conclusion
20 that the return would be detrimental or would not be detrimental.
21 The court also shall make appropriate findings pursuant to
22 subdivision (a) of Section 366; and, where relevant, shall order
23 any additional services reasonably believed to facilitate the return
24 of the child to the custody of his or her parent or legal guardian.
25 The court shall also inform the parent or legal guardian that if the
26 child cannot be returned home by the 12-month permanency
27 hearing, a proceeding pursuant to Section 366.26 may be instituted.
28 This section does not apply in a case where, pursuant to Section
29 361.5, the court has ordered that reunification services shall not
30 be provided.

31 If the child was under three years of age on the date of the initial
32 removal, or is a member of a sibling group described in
33 subparagraph (C) of paragraph (1) of subdivision (a) of Section
34 361.5, and the court finds by clear and convincing evidence that
35 the parent failed to participate regularly and make substantive
36 progress in a court-ordered treatment plan, the court may schedule
37 a hearing pursuant to Section 366.26 within 120 days. If, however,
38 the court finds there is a substantial probability that the child, who
39 was under three years of age on the date of initial removal or is a
40 member of a sibling group described in subparagraph (C) of

1 paragraph (1) of subdivision (a) of Section 361.5, may be returned
2 to his or her parent or legal guardian within six months or that
3 reasonable services have not been provided, the court shall continue
4 the case to the 12-month permanency hearing.

5 For the purpose of placing and maintaining a sibling group
6 together in a permanent home, the court, in making its
7 determination to schedule a hearing pursuant to Section 366.26
8 for some or all members of a sibling group, as described in
9 subparagraph (C) of paragraph (1) of subdivision (a) of Section
10 361.5, shall review and consider the social worker's report and
11 recommendations. Factors the report shall address, and the court
12 shall consider, may include, but need not be limited to, whether
13 the sibling group was removed from parental care as a group, the
14 closeness and strength of the sibling bond, the ages of the siblings,
15 the appropriateness of maintaining the sibling group together, the
16 detriment to the child if sibling ties are not maintained, the
17 likelihood of finding a permanent home for the sibling group,
18 whether the sibling group is currently placed together in a
19 preadoptive home or has a concurrent plan goal of legal
20 permanency in the same home, the wishes of each child whose
21 age and physical and emotional condition permits a meaningful
22 response, and the best interest of each child in the sibling group.
23 The court shall specify the factual basis for its finding that it is in
24 the best interest of each child to schedule a hearing pursuant to
25 Section 366.26 in 120 days for some or all of the members of the
26 sibling group.

27 If the child was removed initially under subdivision (g) of
28 Section 300 and the court finds by clear and convincing evidence
29 that the whereabouts of the parent are still unknown, or the parent
30 has failed to contact and visit the child, the court may schedule a
31 hearing pursuant to Section 366.26 within 120 days. The court
32 shall take into account any particular barriers to a parent's ability
33 to maintain contact with his or her child due to the parent's
34 incarceration or institutionalization. If the court finds by clear and
35 convincing evidence that the parent has been convicted of a felony
36 indicating parental unfitness, the court may schedule a hearing
37 pursuant to Section 366.26 within 120 days.

38 If the child had been placed under court supervision with a
39 previously noncustodial parent pursuant to Section 361.2, the court
40 shall determine whether supervision is still necessary. The court

1 may terminate supervision and transfer permanent custody to that
2 parent, as provided for by paragraph (1) of subdivision (b) of
3 Section 361.2.

4 In all other cases, the court shall direct that any reunification
5 services previously ordered shall continue to be offered to the
6 parent or legal guardian pursuant to the time periods set forth in
7 subdivision (a) of Section 361.5, provided that the court may
8 modify the terms and conditions of those services.

9 If the child is not returned to his or her parent or legal guardian,
10 the court shall determine whether reasonable services that were
11 designed to aid the parent or legal guardian in overcoming the
12 problems that led to the initial removal and the continued custody
13 of the child have been provided or offered to the parent or legal
14 guardian. The court shall order that those services be initiated,
15 continued, or terminated.

16 (f) The permanency hearing shall be held no later than 12
17 months after the date the child entered foster care, as that date is
18 determined pursuant to Section 361.49. At the permanency hearing,
19 the court shall determine the permanent plan for the child, which
20 shall include a determination of whether the child will be returned
21 to the child's home and, if so, when, within the time limits of
22 subdivision (a) of Section 361.5. The court shall order the return
23 of the child to the physical custody of his or her parent or legal
24 guardian unless the court finds, by a preponderance of the evidence,
25 that the return of the child to his or her parent or legal guardian
26 would create a substantial risk of detriment to the safety, protection,
27 or physical or emotional well-being of the child. The social worker
28 shall have the burden of establishing that detriment. At the
29 permanency hearing, the court shall consider the criminal history,
30 obtained pursuant to paragraph (1) of subdivision (f) of Section
31 16504.5, of the parent or legal guardian subsequent to the child's
32 removal to the extent that the criminal record is substantially related
33 to the welfare of the child or the parent or legal guardian's ability
34 to exercise custody and control regarding his or her child, provided
35 that the parent or legal guardian agreed to submit fingerprint images
36 to obtain criminal history information as part of the case plan. The
37 court shall also determine whether reasonable services that were
38 designed to aid the parent or legal guardian to overcome the
39 problems that led to the initial removal and continued custody of
40 the child have been provided or offered to the parent or legal

1 guardian. For each youth 16 years of age and older, the court shall
2 also determine whether services have been made available to assist
3 him or her in making the transition from foster care to independent
4 living. The failure of the parent or legal guardian to participate
5 regularly and make substantive progress in court-ordered treatment
6 programs shall be prima facie evidence that return would be
7 detrimental. In making its determination, the court shall review
8 and consider the social worker's report and recommendations and
9 the report and recommendations of any child advocate appointed
10 pursuant to Section 356.5, shall consider the efforts or progress,
11 or both, demonstrated by the parent or legal guardian and the extent
12 to which he or she availed himself or herself of services provided,
13 taking into account the particular barriers to an incarcerated or
14 institutionalized parent or legal guardian's access to those
15 court-mandated services and ability to maintain contact with his
16 or her child and shall make appropriate findings pursuant to
17 subdivision (a) of Section 366.

18 Regardless of whether the child is returned to his or her parent
19 or legal guardian, the court shall specify the factual basis for its
20 decision. If the child is not returned to a parent or legal guardian,
21 the court shall specify the factual basis for its conclusion that the
22 return would be detrimental. The court also shall make a finding
23 pursuant to subdivision (a) of Section 366. If the child is not
24 returned to his or her parent or legal guardian, the court shall
25 consider, and state for the record, in-state and out-of-state
26 placement options. If the child is placed out of the state, the court
27 shall make a determination whether the out-of-state placement
28 continues to be appropriate and in the best interests of the child.

29 (g) If the time period in which the court-ordered services were
30 provided has met or exceeded the time period set forth in
31 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
32 of Section 361.5, as appropriate, and a child is not returned to the
33 custody of a parent or legal guardian at the permanency hearing
34 held pursuant to subdivision (f), the court shall do one of the
35 following:

36 (1) Continue the case for up to six months for a permanency
37 review hearing, provided that the hearing shall occur within 18
38 months of the date the child was originally taken from the physical
39 custody of his or her parent or legal guardian. The court shall
40 continue the case only if it finds that there is a substantial

1 probability that the child will be returned to the physical custody
2 of his or her parent or legal guardian and safely maintained in the
3 home within the extended period of time or that reasonable services
4 have not been provided to the parent or legal guardian. For the
5 purposes of this section, in order to find a substantial probability
6 that the child will be returned to the physical custody of his or her
7 parent or legal guardian and safely maintained in the home within
8 the extended period of time, the court shall be required to find all
9 of the following:

10 (A) That the parent or legal guardian has consistently and
11 regularly contacted and visited with the child.

12 (B) That the parent or legal guardian has made significant
13 progress in resolving problems that led to the child's removal from
14 the home.

15 (C) The parent or legal guardian has demonstrated the capacity
16 and ability both to complete the objectives of his or her treatment
17 plan and to provide for the child's safety, protection, physical and
18 emotional well-being, and special needs.

19 For purposes of this subdivision, the court's decision to continue
20 the case based on a finding of substantial probability that the child
21 will be returned to the physical custody of his or her parent or legal
22 guardian is a compelling reason for determining that a hearing
23 held pursuant to Section 366.26 is not in the best interests of the
24 child.

25 The court shall inform the parent or legal guardian that if the
26 child cannot be returned home by the next permanency review
27 hearing, a proceeding pursuant to Section 366.26 may be instituted.
28 The court may not order that a hearing pursuant to Section 366.26
29 be held unless there is clear and convincing evidence that
30 reasonable services have been provided or offered to the parent or
31 legal guardian.

32 (2) Order that a hearing be held within 120 days, pursuant to
33 Section 366.26, but only if the court does not continue the case to
34 the permanency planning review hearing and there is clear and
35 convincing evidence that reasonable services have been provided
36 or offered to the parents or legal guardians. On and after January
37 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
38 if the child is a nonminor dependent, unless the nonminor
39 dependent is an Indian child and tribal customary adoption is
40 recommended as the permanent plan.

1 ~~(3) Order that the child remain in long-term foster care, but only~~
2 ~~if the court finds by clear and convincing evidence, based upon~~
3 ~~the evidence already presented to it, including a recommendation~~
4 ~~by the State Department of Social Services when it is acting as an~~
5 ~~adoption agency in counties that are not served by a county~~
6 ~~adoption agency or by a licensed county adoption agency, that~~
7 ~~there is a compelling reason for determining that a hearing held~~
8 ~~pursuant to Section 366.26 is not in the best interest of the child~~
9 ~~because the child is not a proper subject for adoption and has no~~
10 ~~one willing to accept legal guardianship. For purposes of this~~
11 ~~section, a recommendation by the State Department of Social~~
12 ~~Services when it is acting as an adoption agency in counties that~~
13 ~~are not served by a county adoption agency or by a licensed county~~
14 ~~adoption agency that adoption is not in the best interest of the child~~
15 ~~shall constitute a compelling reason for the court's determination.~~
16 ~~That recommendation shall be based on the present circumstances~~
17 ~~of the child and shall not preclude a different recommendation at~~
18 ~~a later date if the child's circumstances change. On and after~~
19 ~~January 1, 2012, the nonminor dependent's legal status as an adult~~
20 ~~is in and of itself a compelling reason not to hold a hearing pursuant~~
21 ~~to Section 366.26. The court may order that a nonminor dependent~~
22 ~~who otherwise is eligible pursuant to Section 11403 remain in a~~
23 ~~planned, permanent living arrangement.~~

24 ~~If the court orders that a child who is 10 years of age or older~~
25 ~~remain in long-term foster care, the court shall determine whether~~
26 ~~the agency has made reasonable efforts to maintain the child's~~
27 ~~relationships with individuals other than the child's siblings who~~
28 ~~are important to the child, consistent with the child's best interests,~~
29 ~~and may make any appropriate order to ensure that those~~
30 ~~relationships are maintained.~~

31 ~~If the child is not returned to his or her parent or legal guardian,~~
32 ~~the court shall consider, and state for the record, in-state and~~
33 ~~out-of-state options for permanent placement. If the child is placed~~
34 ~~out of the state, the court shall make a determination whether the~~
35 ~~out-of-state placement continues to be appropriate and in the best~~
36 ~~interests of the child.~~

37 ~~(h) In any case in which the court orders that a hearing pursuant~~
38 ~~to Section 366.26 shall be held, it shall also order the termination~~
39 ~~of reunification services to the parent or legal guardian. The court~~
40 ~~shall continue to permit the parent or legal guardian to visit the~~

1 child pending the hearing unless it finds that visitation would be
2 detrimental to the child. The court shall make any other appropriate
3 orders to enable the child to maintain relationships with individuals,
4 other than the child's siblings, who are important to the child,
5 consistent with the child's best interests. When the court orders a
6 termination of reunification services to the parent or legal guardian,
7 it shall also order that the child's caregiver receive the child's birth
8 certificate in accordance with Sections 16010.4 and 16010.5.
9 Additionally, when the court orders a termination of reunification
10 services to the parent or legal guardian, it shall order, when
11 appropriate, that a child who is 16 years of age or older receive
12 his or her birth certificate.

13 (i) (1) ~~Whenever a court orders that a hearing pursuant to~~
14 ~~Section 366.26, including, when, in consultation with the child's~~
15 ~~tribe, tribal customary adoption is recommended, shall be held, it~~
16 ~~shall direct the agency supervising the child and the licensed county~~
17 ~~adoption agency, or the State Department of Social Services when~~
18 ~~it is acting as an adoption agency in counties that are not served~~
19 ~~by a county adoption agency, to prepare an assessment that shall~~
20 ~~include:~~

21 (A) ~~Current search efforts for an absent parent or parents or~~
22 ~~legal guardians.~~

23 (B) ~~A review of the amount of and nature of any contact between~~
24 ~~the child and his or her parents or legal guardians and other~~
25 ~~members of his or her extended family since the time of placement.~~
26 ~~Although the extended family of each child shall be reviewed on~~
27 ~~a case-by-case basis, "extended family" for the purpose of this~~
28 ~~subparagraph shall include, but not be limited to, the child's~~
29 ~~siblings, grandparents, aunts, and uncles.~~

30 (C) ~~An evaluation of the child's medical, developmental,~~
31 ~~scholastic, mental, and emotional status.~~

32 (D) ~~A preliminary assessment of the eligibility and commitment~~
33 ~~of any identified prospective adoptive parent or legal guardian,~~
34 ~~including the prospective tribal customary adoptive parent,~~
35 ~~particularly the caretaker, to include a social history including~~
36 ~~screening for criminal records and prior referrals for child abuse~~
37 ~~or neglect, the capability to meet the child's needs, and the~~
38 ~~understanding of the legal and financial rights and responsibilities~~
39 ~~of adoption and guardianship. If a proposed guardian is a relative~~
40 ~~of the minor, the assessment shall also consider, but need not be~~

1 limited to, all of the factors specified in subdivision (a) of Section
2 361.3 and in Section 361.4.

3 ~~(E) The relationship of the child to any identified prospective~~
4 ~~adoptive parent or legal guardian, the duration and character of~~
5 ~~the relationship, the degree of attachment of the child to the~~
6 ~~prospective relative guardian or adoptive parent, the relative's or~~
7 ~~adoptive parent's strong commitment to caring permanently for~~
8 ~~the child, the motivation for seeking adoption or guardianship, a~~
9 ~~statement from the child concerning placement and the adoption~~
10 ~~or guardianship, and whether the child, if over 12 years of age,~~
11 ~~has been consulted about the proposed relative guardianship~~
12 ~~arrangements, unless the child's age or physical, emotional, or~~
13 ~~other condition precludes his or her meaningful response, and if~~
14 ~~so, a description of the condition.~~

15 ~~(F) A description of efforts to be made to identify a prospective~~
16 ~~adoptive parent or legal guardian, including, but not limited to,~~
17 ~~child-specific recruitment and listing on an adoption exchange~~
18 ~~within the state or out of the state.~~

19 ~~(G) An analysis of the likelihood that the child will be adopted~~
20 ~~if parental rights are terminated.~~

21 ~~(H) In the case of an Indian child, in addition to subparagraphs~~
22 ~~(A) to (G), inclusive, an assessment of the likelihood that the child~~
23 ~~will be adopted, when, in consultation with the child's tribe, a~~
24 ~~tribal customary adoption, as defined in Section 366.24, is~~
25 ~~recommended. If tribal customary adoption is recommended, the~~
26 ~~assessment shall include an analysis of both of the following:~~

27 ~~(i) Whether tribal customary adoption would or would not be~~
28 ~~detrimental to the Indian child and the reasons for reaching that~~
29 ~~conclusion.~~

30 ~~(ii) Whether the Indian child cannot or should not be returned~~
31 ~~to the home of the Indian parent or Indian custodian and the reasons~~
32 ~~for reaching that conclusion.~~

33 ~~(2) (A) A relative caregiver's preference for legal guardianship~~
34 ~~over adoption, if it is due to circumstances that do not include an~~
35 ~~unwillingness to accept legal or financial responsibility for the~~
36 ~~child, shall not constitute the sole basis for recommending removal~~
37 ~~of the child from the relative caregiver for purposes of adoptive~~
38 ~~placement.~~

39 ~~(B) A relative caregiver shall be given information regarding~~
40 ~~the permanency options of guardianship and adoption, including~~

1 the long-term benefits and consequences of each option, prior to
2 establishing legal guardianship or pursuing adoption. If the
3 proposed permanent plan is guardianship with an approved relative
4 caregiver for a minor eligible for aid under the Kin-GAP Program,
5 as provided for in Article 4.7 (commencing with Section 11385)
6 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
7 be informed about the terms and conditions of the negotiated
8 agreement pursuant to Section 11387 and shall agree to its
9 execution prior to the hearing held pursuant to Section 366.26. A
10 copy of the executed negotiated agreement shall be attached to the
11 assessment.

12 (j) If, at any hearing held pursuant to Section 366.26, a
13 guardianship is established for the minor with an approved relative
14 caregiver, and juvenile court dependency is subsequently
15 dismissed, the minor shall be eligible for aid under the Kin-GAP
16 Program, as provided for in Article 4.5 (commencing with Section
17 11360) or Article 4.7 (commencing with Section 11385), as
18 applicable, of Chapter 2 of Part 3 of Division 9.

19 (k) As used in this section, “relative” means an adult who is
20 related to the minor by blood, adoption, or affinity within the fifth
21 degree of kinship, including stepparents, stepsiblings, and all
22 relatives whose status is preceded by the words “great,”
23 “great-great,” or “grand,” or the spouse of any of those persons
24 even if the marriage was terminated by death or dissolution. If the
25 proposed permanent plan is guardianship with an approved relative
26 caregiver for a minor eligible for aid under the Kin-GAP Program
27 as provided in Article 4.7 (commencing with Section 11385) of
28 Chapter 2 of Part 3 of Division 9, “relative” as used in this section
29 has the same meaning as “relative” as defined in subdivision (c)
30 of Section 11391.

31 (l) For purposes of this section, evidence of any of the following
32 circumstances may not, in and of itself, be deemed a failure to
33 provide or offer reasonable services:

34 (1) The child has been placed with a foster family that is eligible
35 to adopt a child, or has been placed in a preadoptive home.

36 (2) The case plan includes services to make and finalize a
37 permanent placement for the child if efforts to reunify fail.

38 (3) Services to make and finalize a permanent placement for
39 the child, if efforts to reunify fail, are provided concurrently with
40 services to reunify the family.

1 ~~(m) The implementation and operation of the amendments to~~
2 ~~subdivisions (e) and (g) enacted at the 2005–06 Regular Session~~
3 ~~shall be subject to appropriation through the budget process and~~
4 ~~by phase, as provided in Section 366.35.~~

5 ~~(n) This section shall remain in effect only until January 1, 2014,~~
6 ~~and as of that date is repealed, unless a later enacted statute, that~~
7 ~~is enacted before January 1, 2014, deletes or extends that date.~~

8 ~~SEC. 20. Section 366.21 of the Welfare and Institutions Code,~~
9 ~~as amended by Section 4 of Chapter 59 of the Statutes of 2011, is~~
10 ~~amended to read:~~

11 ~~366.21. (a) Every hearing conducted by the juvenile court~~
12 ~~reviewing the status of a dependent child shall be placed on the~~
13 ~~appearance calendar. The court shall advise all persons present at~~
14 ~~the hearing of the date of the future hearing and of their right to~~
15 ~~be present and represented by counsel.~~

16 ~~(b) Except as provided in Sections 294 and 295, notice of the~~
17 ~~hearing shall be provided pursuant to Section 293.~~

18 ~~(c) At least 10 calendar days prior to the hearing, the social~~
19 ~~worker shall file a supplemental report with the court regarding~~
20 ~~the services provided or offered to the parent or legal guardian to~~
21 ~~enable him or her to assume custody and the efforts made to~~
22 ~~achieve legal permanency for the child if efforts to reunify fail,~~
23 ~~including, but not limited to, efforts to maintain relationships~~
24 ~~between a child who is 10 years of age or older and has been in~~
25 ~~out-of-home placement for six months or longer and individuals~~
26 ~~who are important to the child, consistent with the child's best~~
27 ~~interests; the progress made; and, where relevant, the prognosis~~
28 ~~for return of the child to the physical custody of his or her parent~~
29 ~~or legal guardian; and shall make his or her recommendation for~~
30 ~~disposition. If the child is a member of a sibling group described~~
31 ~~in subparagraph (C) of paragraph (1) of subdivision (a) of Section~~
32 ~~361.5, the report and recommendation may also take into account~~
33 ~~those factors described in subdivision (c) relating to the child's~~
34 ~~sibling group. If the recommendation is not to return the child to~~
35 ~~a parent or legal guardian, the report shall specify why the return~~
36 ~~of the child would be detrimental to the child. The social worker~~
37 ~~shall provide the parent or legal guardian, counsel for the child,~~
38 ~~and any court-appointed child advocate with a copy of the report,~~
39 ~~including his or her recommendation for disposition, at least 10~~
40 ~~calendar days prior to the hearing. In the case of a child removed~~

1 from the physical custody of his or her parent or legal guardian;
2 the social worker shall, at least 10 calendar days prior to the
3 hearing, provide a summary of his or her recommendation for
4 disposition to any foster parents, relative caregivers, and certified
5 foster parents who have been approved for adoption by the State
6 Department of Social Services when it is acting as an adoption
7 agency in counties that are not served by a county adoption agency
8 or by a licensed county adoption agency, community care facility,
9 or foster family agency having the physical custody of the child.
10 The social worker shall include a copy of the Judicial Council
11 Caregiver Information Form (JV-290) with the summary of
12 recommendations to the child's foster parents, relative caregivers,
13 or foster parents approved for adoption, in the caregiver's primary
14 language when available, along with information on how to file
15 the form with the court.

16 (d) Prior to any hearing involving a child in the physical custody
17 of a community care facility or a foster family agency that may
18 result in the return of the child to the physical custody of his or
19 her parent or legal guardian, or in adoption or the creation of a
20 legal guardianship, the facility or agency shall file with the court
21 a report, or a Judicial Council Caregiver Information Form
22 (JV-290), containing its recommendation for disposition. Prior to
23 the hearing involving a child in the physical custody of a foster
24 parent, a relative caregiver, or a certified foster parent who has
25 been approved for adoption by the State Department of Social
26 Services when it is acting as an adoption agency or by a licensed
27 adoption agency, the foster parent, relative caregiver, or the
28 certified foster parent who has been approved for adoption by the
29 State Department of Social Services when it is acting as an
30 adoption agency in counties that are not served by a county
31 adoption agency or by a licensed county adoption agency, may
32 file with the court a report containing his or her recommendation
33 for disposition. The court shall consider the report and
34 recommendation filed pursuant to this subdivision prior to
35 determining any disposition.

36 (e) At the review hearing held six months after the initial
37 dispositional hearing, but no later than 12 months after the date
38 the child entered foster care as determined in Section 361.49,
39 whichever occurs earlier, the court shall order the return of the
40 child to the physical custody of his or her parent or legal guardian

1 unless the court finds, by a preponderance of the evidence, that
2 the return of the child to his or her parent or legal guardian would
3 create a substantial risk of detriment to the safety, protection, or
4 physical or emotional well-being of the child. The social worker
5 shall have the burden of establishing that detriment. At the hearing,
6 the court shall consider the criminal history, obtained pursuant to
7 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
8 or legal guardian subsequent to the child's removal to the extent
9 that the criminal record is substantially related to the welfare of
10 the child or the parent's or guardian's ability to exercise custody
11 and control regarding his or her child, provided the parent or legal
12 guardian agreed to submit fingerprint images to obtain criminal
13 history information as part of the case plan. The failure of the
14 parent or legal guardian to participate regularly and make
15 substantive progress in court-ordered treatment programs shall be
16 prima facie evidence that return would be detrimental. In making
17 its determination, the court shall review and consider the social
18 worker's report and recommendations and the report and
19 recommendations of any child advocate appointed pursuant to
20 Section 356.5; and shall consider the efforts or progress, or both,
21 demonstrated by the parent or legal guardian and the extent to
22 which he or she availed himself or herself to services provided,
23 taking into account the particular barriers to an incarcerated or
24 institutionalized parent or legal guardian's access to those
25 court-mandated services and ability to maintain contact with his
26 or her child.

27 Regardless of whether the child is returned to a parent or legal
28 guardian, the court shall specify the factual basis for its conclusion
29 that the return would be detrimental or would not be detrimental.
30 The court also shall make appropriate findings pursuant to
31 subdivision (a) of Section 366; and, where relevant, shall order
32 any additional services reasonably believed to facilitate the return
33 of the child to the custody of his or her parent or legal guardian.
34 The court shall also inform the parent or legal guardian that if the
35 child cannot be returned home by the 12-month permanency
36 hearing, a proceeding pursuant to Section 366.26 may be instituted.
37 This section does not apply in a case where, pursuant to Section
38 361.5, the court has ordered that reunification services shall not
39 be provided.

1 If the child was under three years of age on the date of the initial
2 removal, or is a member of a sibling group described in
3 subparagraph (C) of paragraph (1) of subdivision (a) of Section
4 361.5, and the court finds by clear and convincing evidence that
5 the parent failed to participate regularly and make substantive
6 progress in a court-ordered treatment plan, the court may schedule
7 a hearing pursuant to Section 366.26 within 120 days. If, however,
8 the court finds there is a substantial probability that the child, who
9 was under three years of age on the date of initial removal or is a
10 member of a sibling group described in subparagraph (C) of
11 paragraph (1) of subdivision (a) of Section 361.5, may be returned
12 to his or her parent or legal guardian within six months or that
13 reasonable services have not been provided, the court shall continue
14 the case to the 12-month permanency hearing.

15 For the purpose of placing and maintaining a sibling group
16 together in a permanent home, the court, in making its
17 determination to schedule a hearing pursuant to Section 366.26
18 for some or all members of a sibling group, as described in
19 subparagraph (C) of paragraph (1) of subdivision (a) of Section
20 361.5, shall review and consider the social worker's report and
21 recommendations. Factors the report shall address, and the court
22 shall consider, may include, but need not be limited to, whether
23 the sibling group was removed from parental care as a group, the
24 closeness and strength of the sibling bond, the ages of the siblings,
25 the appropriateness of maintaining the sibling group together, the
26 detriment to the child if sibling ties are not maintained, the
27 likelihood of finding a permanent home for the sibling group,
28 whether the sibling group is currently placed together in a
29 preadoptive home or has a concurrent plan goal of legal
30 permanency in the same home, the wishes of each child whose
31 age and physical and emotional condition permits a meaningful
32 response, and the best interest of each child in the sibling group.
33 The court shall specify the factual basis for its finding that it is in
34 the best interest of each child to schedule a hearing pursuant to
35 Section 366.26 in 120 days for some or all of the members of the
36 sibling group.

37 If the child was removed initially under subdivision (g) of
38 Section 300 and the court finds by clear and convincing evidence
39 that the whereabouts of the parent are still unknown, or the parent
40 has failed to contact and visit the child, the court may schedule a

1 hearing pursuant to Section 366.26 within 120 days. The court
2 shall take into account any particular barriers to a parent's ability
3 to maintain contact with his or her child due to the parent's
4 incarceration or institutionalization. If the court finds by clear and
5 convincing evidence that the parent has been convicted of a felony
6 indicating parental unfitness, the court may schedule a hearing
7 pursuant to Section 366.26 within 120 days.

8 If the child had been placed under court supervision with a
9 previously noncustodial parent pursuant to Section 361.2, the court
10 shall determine whether supervision is still necessary. The court
11 may terminate supervision and transfer permanent custody to that
12 parent, as provided for by paragraph (1) of subdivision (b) of
13 Section 361.2.

14 In all other cases, the court shall direct that any reunification
15 services previously ordered shall continue to be offered to the
16 parent or legal guardian pursuant to the time periods set forth in
17 subdivision (a) of Section 361.5, provided that the court may
18 modify the terms and conditions of those services.

19 If the child is not returned to his or her parent or legal guardian,
20 the court shall determine whether reasonable services that were
21 designed to aid the parent or legal guardian in overcoming the
22 problems that led to the initial removal and the continued custody
23 of the child have been provided or offered to the parent or legal
24 guardian. The court shall order that those services be initiated,
25 continued, or terminated.

26 (f) The permanency hearing shall be held no later than 12
27 months after the date the child entered foster care, as that date is
28 determined pursuant to Section 361.49. At the permanency hearing,
29 the court shall determine the permanent plan for the child, which
30 shall include a determination of whether the child will be returned
31 to the child's home and, if so, when, within the time limits of
32 subdivision (a) of Section 361.5. The court shall order the return
33 of the child to the physical custody of his or her parent or legal
34 guardian unless the court finds, by a preponderance of the evidence,
35 that the return of the child to his or her parent or legal guardian
36 would create a substantial risk of detriment to the safety, protection,
37 or physical or emotional well-being of the child. The social worker
38 shall have the burden of establishing that detriment. At the
39 permanency hearing, the court shall consider the criminal history,
40 obtained pursuant to paragraph (1) of subdivision (f) of Section

1 16504.5, of the parent or legal guardian subsequent to the child's
2 removal to the extent that the criminal record is substantially related
3 to the welfare of the child or the parent or legal guardian's ability
4 to exercise custody and control regarding his or her child, provided
5 that the parent or legal guardian agreed to submit fingerprint images
6 to obtain criminal history information as part of the case plan. The
7 court shall also determine whether reasonable services that were
8 designed to aid the parent or legal guardian to overcome the
9 problems that led to the initial removal and continued custody of
10 the child have been provided or offered to the parent or legal
11 guardian. For each youth 16 years of age and older, the court shall
12 also determine whether services have been made available to assist
13 him or her in making the transition from foster care to independent
14 living. The failure of the parent or legal guardian to participate
15 regularly and make substantive progress in court-ordered treatment
16 programs shall be prima facie evidence that return would be
17 detrimental. In making its determination, the court shall review
18 and consider the social worker's report and recommendations and
19 the report and recommendations of any child advocate appointed
20 pursuant to Section 356.5, shall consider the efforts or progress,
21 or both, demonstrated by the parent or legal guardian and the extent
22 to which he or she availed himself or herself of services provided,
23 taking into account the particular barriers to an incarcerated or
24 institutionalized parent or legal guardian's access to those
25 court-mandated services and ability to maintain contact with his
26 or her child and shall make appropriate findings pursuant to
27 subdivision (a) of Section 366.

28 Regardless of whether the child is returned to his or her parent
29 or legal guardian, the court shall specify the factual basis for its
30 decision. If the child is not returned to a parent or legal guardian,
31 the court shall specify the factual basis for its conclusion that the
32 return would be detrimental. The court also shall make a finding
33 pursuant to subdivision (a) of Section 366. If the child is not
34 returned to his or her parent or legal guardian, the court shall
35 consider, and state for the record, in-state and out-of-state
36 placement options. If the child is placed out of the state, the court
37 shall make a determination whether the out-of-state placement
38 continues to be appropriate and in the best interests of the child.

39 (g) If the time period in which the court-ordered services were
40 provided has met or exceeded the time period set forth in

1 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
2 of Section 361.5, as appropriate, and a child is not returned to the
3 custody of a parent or legal guardian at the permanency hearing
4 held pursuant to subdivision (f), the court shall do one of the
5 following:

6 (1) ~~Continue the case for up to six months for a permanency~~
7 ~~review hearing, provided that the hearing shall occur within 18~~
8 ~~months of the date the child was originally taken from the physical~~
9 ~~custody of his or her parent or legal guardian. The court shall~~
10 ~~continue the case only if it finds that there is a substantial~~
11 ~~probability that the child will be returned to the physical custody~~
12 ~~of his or her parent or legal guardian and safely maintained in the~~
13 ~~home within the extended period of time or that reasonable services~~
14 ~~have not been provided to the parent or legal guardian. For the~~
15 ~~purposes of this section, in order to find a substantial probability~~
16 ~~that the child will be returned to the physical custody of his or her~~
17 ~~parent or legal guardian and safely maintained in the home within~~
18 ~~the extended period of time, the court shall be required to find all~~
19 ~~of the following:~~

20 (A) ~~That the parent or legal guardian has consistently and~~
21 ~~regularly contacted and visited with the child.~~

22 (B) ~~That the parent or legal guardian has made significant~~
23 ~~progress in resolving problems that led to the child's removal from~~
24 ~~the home.~~

25 (C) ~~The parent or legal guardian has demonstrated the capacity~~
26 ~~and ability both to complete the objectives of his or her treatment~~
27 ~~plan and to provide for the child's safety, protection, physical and~~
28 ~~emotional well-being, and special needs.~~

29 For purposes of this subdivision, the court's decision to continue
30 the case based on a finding or substantial probability that the child
31 will be returned to the physical custody of his or her parent or legal
32 guardian is a compelling reason for determining that a hearing
33 held pursuant to Section 366.26 is not in the best interests of the
34 child.

35 The court shall inform the parent or legal guardian that if the
36 child cannot be returned home by the next permanency review
37 hearing, a proceeding pursuant to Section 366.26 may be instituted.
38 The court may not order that a hearing pursuant to Section 366.26
39 be held unless there is clear and convincing evidence that

1 reasonable services have been provided or offered to the parent or
2 legal guardian.

3 ~~(2) Order that a hearing be held within 120 days, pursuant to~~
4 ~~Section 366.26, but only if the court does not continue the case to~~
5 ~~the permanency planning review hearing and there is clear and~~
6 ~~convincing evidence that reasonable services have been provided~~
7 ~~or offered to the parents or legal guardians. On or after January 1,~~
8 ~~2012, a hearing pursuant to Section 366.26 shall not be ordered if~~
9 ~~the child is a nonminor dependent.~~

10 ~~(3) Order that the child remain in long-term foster care, but only~~
11 ~~if the court finds by clear and convincing evidence, based upon~~
12 ~~the evidence already presented to it, including a recommendation~~
13 ~~by the State Department of Social Services when it is acting as an~~
14 ~~adoption agency in counties that are not served by a county~~
15 ~~adoption agency or by a licensed county adoption agency, that~~
16 ~~there is a compelling reason for determining that a hearing held~~
17 ~~pursuant to Section 366.26 is not in the best interest of the child~~
18 ~~because the child is not a proper subject for adoption and has no~~
19 ~~one willing to accept legal guardianship. For purposes of this~~
20 ~~section, a recommendation by the State Department of Social~~
21 ~~Services when it is acting as an adoption agency in counties that~~
22 ~~are not served by a county adoption agency or by a licensed county~~
23 ~~adoption agency that adoption is not in the best interest of the child~~
24 ~~shall constitute a compelling reason for the court's determination.~~
25 ~~That recommendation shall be based on the present circumstances~~
26 ~~of the child and shall not preclude a different recommendation at~~
27 ~~a later date if the child's circumstances change. On and after~~
28 ~~January 1, 2012, the nonminor dependent's legal status as an adult~~
29 ~~is in and of itself a compelling reason not to hold a hearing pursuant~~
30 ~~to Section 366.26. The court may order that a nonminor dependent~~
31 ~~who otherwise is eligible pursuant to Section 11403 remain in a~~
32 ~~planned, permanent living arrangement.~~

33 ~~If the court orders that a child who is 10 years of age or older~~
34 ~~remain in long-term foster care, the court shall determine whether~~
35 ~~the agency has made reasonable efforts to maintain the child's~~
36 ~~relationships with individuals other than the child's siblings who~~
37 ~~are important to the child, consistent with the child's best interests,~~
38 ~~and may make any appropriate order to ensure that those~~
39 ~~relationships are maintained.~~

1 If the child is not returned to his or her parent or legal guardian,
2 the court shall consider, and state for the record, in-state and
3 out-of-state options for permanent placement. If the child is placed
4 out of the state, the court shall make a determination whether the
5 out-of-state placement continues to be appropriate and in the best
6 interests of the child.

7 (h) ~~In any case in which the court orders that a hearing pursuant~~
8 ~~to Section 366.26 shall be held, it shall also order the termination~~
9 ~~of reunification services to the parent or legal guardian. The court~~
10 ~~shall continue to permit the parent or legal guardian to visit the~~
11 ~~child pending the hearing unless it finds that visitation would be~~
12 ~~detrimental to the child. The court shall make any other appropriate~~
13 ~~orders to enable the child to maintain relationships with individuals,~~
14 ~~other than the child's siblings, who are important to the child,~~
15 ~~consistent with the child's best interests. When the court orders a~~
16 ~~termination of reunification services to the parent or legal guardian,~~
17 ~~it shall also order that the child's caregiver receive the child's birth~~
18 ~~certificate in accordance with Sections 16010.4 and 16010.5.~~
19 ~~Additionally, when the court orders a termination of reunification~~
20 ~~services to the parent or legal guardian, it shall order, when~~
21 ~~appropriate, that a child who is 16 years of age or older receive~~
22 ~~his or her birth certificate.~~

23 (i) ~~(1) Whenever a court orders that a hearing pursuant to~~
24 ~~Section 366.26 shall be held, it shall direct the agency supervising~~
25 ~~the child and the licensed county adoption agency, or the State~~
26 ~~Department of Social Services when it is acting as an adoption~~
27 ~~agency in counties that are not served by a county adoption agency,~~
28 ~~to prepare an assessment that shall include:~~

29 (A) ~~Current search efforts for an absent parent or parents or~~
30 ~~legal guardians.~~

31 (B) ~~A review of the amount of and nature of any contact between~~
32 ~~the child and his or her parents or legal guardians and other~~
33 ~~members of his or her extended family since the time of placement.~~
34 ~~Although the extended family of each child shall be reviewed on~~
35 ~~a case-by-case basis, "extended family" for the purpose of this~~
36 ~~subparagraph shall include, but not be limited to, the child's~~
37 ~~siblings, grandparents, aunts, and uncles.~~

38 (C) ~~An evaluation of the child's medical, developmental,~~
39 ~~scholastic, mental, and emotional status.~~

~~(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4.~~

~~(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.~~

~~(F) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment and listing on an adoption exchange within the state or out of the state.~~

~~(G) An analysis of the likelihood that the child will be adopted if parental rights are terminated.~~

~~(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.~~

~~(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program,~~

1 as provided for in Article 4.7 (commencing with Section 11385)
2 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
3 be informed about the terms and conditions of the negotiated
4 agreement pursuant to Section 11387 and shall agree to its
5 execution prior to the hearing held pursuant to Section 366.26. A
6 copy of the executed negotiated agreement shall be attached to the
7 assessment.

8 (j) If, at any hearing held pursuant to Section 366.26, a
9 guardianship is established for the minor with an approved relative
10 caregiver, and juvenile court dependency is subsequently
11 dismissed, the minor shall be eligible for aid under the Kin-GAP
12 Program, as provided for in Article 4.5 (commencing with Section
13 11360) or Article 4.7 (commencing with Section 11385), as
14 applicable, of Chapter 2 of Part 3 of Division 9.

15 (k) As used in this section, "relative" means an adult who is
16 related to the minor by blood, adoption, or affinity within the fifth
17 degree of kinship, including stepparents, stepsiblings, and all
18 relatives whose status is preceded by the words "great,"
19 "great-great," or "grand," or the spouse of any of those persons
20 even if the marriage was terminated by death or dissolution. If the
21 proposed permanent plan is guardianship with an approved relative
22 caregiver for a minor eligible for aid under the Kin-GAP Program,
23 as provided for in Article 4.7 (commencing with Section 11385)
24 of Chapter 2 of Part 3 of Division 9, "relative" as used in this
25 section has the same meaning as "relative" as defined in
26 subdivision (c) of Section 11391.

27 (l) For purposes of this section, evidence of any of the following
28 circumstances may not, in and of itself, be deemed a failure to
29 provide or offer reasonable services:

30 (1) The child has been placed with a foster family that is eligible
31 to adopt a child, or has been placed in a preadoptive home.

32 (2) The case plan includes services to make and finalize a
33 permanent placement for the child if efforts to reunify fail.

34 (3) Services to make and finalize a permanent placement for
35 the child, if efforts to reunify fail, are provided concurrently with
36 services to reunify the family.

37 (m) The implementation and operation of the amendments to
38 subdivisions (c) and (g) enacted at the 2005-06 Regular Session
39 shall be subject to appropriation through the budget process and
40 by phase, as provided in Section 366.35.

1 ~~(n) This section shall become operative on January 1, 2014.~~

2 *SEC. 20. Section 366.21 of the Welfare and Institutions Code*
3 *is amended to read:*

4 366.21. (a) Every hearing conducted by the juvenile court
5 reviewing the status of a dependent child shall be placed on the
6 appearance calendar. The court shall advise all persons present at
7 the hearing of the date of the future hearing and of their right to
8 be present and represented by counsel.

9 (b) Except as provided in Sections 294 and 295, notice of the
10 hearing shall be provided pursuant to Section 293.

11 (c) At least 10 calendar days prior to the hearing, the social
12 worker shall file a supplemental report with the court regarding
13 the services provided or offered to the parent or legal guardian to
14 enable him or her to assume custody and the efforts made to
15 achieve legal permanence for the child if efforts to reunify fail,
16 including, but not limited to, efforts to maintain relationships
17 between a child who is 10 years of age or older and has been in
18 out-of-home placement for six months or longer and individuals
19 who are important to the child, consistent with the child's best
20 interests; the progress made; and, where relevant, the prognosis
21 for return of the child to the physical custody of his or her parent
22 or legal guardian; and shall make his or her recommendation for
23 disposition. If the child is a member of a sibling group described
24 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
25 361.5, the report and recommendation may also take into account
26 those factors described in subdivision (e) relating to the child's
27 sibling group. If the recommendation is not to return the child to
28 a parent or legal guardian, the report shall specify why the return
29 of the child would be detrimental to the child. The social worker
30 shall provide the parent or legal guardian, counsel for the child,
31 and any court-appointed child advocate with a copy of the report,
32 including his or her recommendation for disposition, at least 10
33 calendar days prior to the hearing. In the case of a child removed
34 from the physical custody of his or her parent or legal guardian,
35 the social worker shall, at least 10 calendar days prior to the
36 hearing, provide a summary of his or her recommendation for
37 disposition to any foster parents, relative caregivers, and certified
38 foster parents who have been approved for adoption by the State
39 Department of Social Services when it is acting as an adoption
40 agency or by a county adoption agency, community care facility,

1 or foster family agency having the physical custody of the child.
2 The social worker shall include a copy of the Judicial Council
3 Caregiver Information Form (JV-290) with the summary of
4 recommendations to the child's foster parents, relative caregivers,
5 or foster parents approved for adoption, in the caregiver's primary
6 language when available, along with information on how to file
7 the form with the court.

8 (d) Prior to any hearing involving a child in the physical custody
9 of a community care facility or a foster family agency that may
10 result in the return of the child to the physical custody of his or
11 her parent or legal guardian, or in adoption or the creation of a
12 legal guardianship, or in the case of an Indian child, in consultation
13 with the child's tribe, tribal customary adoption, the facility or
14 agency shall file with the court a report, or a Judicial Council
15 Caregiver Information Form (JV-290), containing its
16 recommendation for disposition. Prior to the hearing involving a
17 child in the physical custody of a foster parent, a relative caregiver,
18 or a certified foster parent who has been approved for adoption by
19 the State Department of Social Services when it is acting as an
20 adoption agency or by a county adoption agency, the foster parent,
21 relative caregiver, or the certified foster parent who has been
22 approved for adoption by the State Department of Social Services
23 when it is acting as an adoption agency or by a county adoption
24 agency, may file with the court a report containing his or her
25 recommendation for disposition. The court shall consider the report
26 and recommendation filed pursuant to this subdivision prior to
27 determining any disposition.

28 (e) At the review hearing held six months after the initial
29 dispositional hearing, but no later than 12 months after the date
30 the child entered foster care as determined in Section 361.49,
31 whichever occurs earlier, the court shall order the return of the
32 child to the physical custody of his or her parent or legal guardian
33 unless the court finds, by a preponderance of the evidence, that
34 the return of the child to his or her parent or legal guardian would
35 create a substantial risk of detriment to the safety, protection, or
36 physical or emotional well-being of the child. The social worker
37 shall have the burden of establishing that detriment. At the hearing,
38 the court shall consider the criminal history, obtained pursuant to
39 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
40 or legal guardian subsequent to the child's removal to the extent

1 that the criminal record is substantially related to the welfare of
2 the child or the parent's or guardian's ability to exercise custody
3 and control regarding his or her child, provided the parent or legal
4 guardian agreed to submit fingerprint images to obtain criminal
5 history information as part of the case plan. The failure of the
6 parent or legal guardian to participate regularly and make
7 substantive progress in court-ordered treatment programs shall be
8 prima facie evidence that return would be detrimental. In making
9 its determination, the court shall review and consider the social
10 worker's report and recommendations and the report and
11 recommendations of any child advocate appointed pursuant to
12 Section 356.5; and shall consider the efforts or progress, or both,
13 demonstrated by the parent or legal guardian and the extent to
14 which he or she availed himself or herself to services provided,
15 taking into account the particular barriers to an incarcerated or
16 institutionalized parent or legal guardian's access to those
17 court-mandated services and ability to maintain contact with his
18 or her child.

19 Regardless of whether the child is returned to a parent or legal
20 guardian, the court shall specify the factual basis for its conclusion
21 that the return would be detrimental or would not be detrimental.
22 The court also shall make appropriate findings pursuant to
23 subdivision (a) of Section 366; and, where relevant, shall order
24 any additional services reasonably believed to facilitate the return
25 of the child to the custody of his or her parent or legal guardian.
26 The court shall also inform the parent or legal guardian that if the
27 child cannot be returned home by the 12-month permanency
28 hearing, a proceeding pursuant to Section 366.26 may be instituted.
29 This section does not apply in a case where, pursuant to Section
30 361.5, the court has ordered that reunification services shall not
31 be provided.

32 If the child was under three years of age on the date of the initial
33 removal, or is a member of a sibling group described in
34 subparagraph (C) of paragraph (1) of subdivision (a) of Section
35 361.5, and the court finds by clear and convincing evidence that
36 the parent failed to participate regularly and make substantive
37 progress in a court-ordered treatment plan, the court may schedule
38 a hearing pursuant to Section 366.26 within 120 days. If, however,
39 the court finds there is a substantial probability that the child, who
40 was under three years of age on the date of initial removal or is a

1 member of a sibling group described in subparagraph (C) of
2 paragraph (1) of subdivision (a) of Section 361.5, may be returned
3 to his or her parent or legal guardian within six months or that
4 reasonable services have not been provided, the court shall continue
5 the case to the 12-month permanency hearing.

6 For the purpose of placing and maintaining a sibling group
7 together in a permanent home, the court, in making its
8 determination to schedule a hearing pursuant to Section 366.26
9 for some or all members of a sibling group, as described in
10 subparagraph (C) of paragraph (1) of subdivision (a) of Section
11 361.5, shall review and consider the social worker's report and
12 recommendations. Factors the report shall address, and the court
13 shall consider, may include, but need not be limited to, whether
14 the sibling group was removed from parental care as a group, the
15 closeness and strength of the sibling bond, the ages of the siblings,
16 the appropriateness of maintaining the sibling group together, the
17 detriment to the child if sibling ties are not maintained, the
18 likelihood of finding a permanent home for the sibling group,
19 whether the sibling group is currently placed together in a
20 preadoptive home or has a concurrent plan goal of legal
21 permanency in the same home, the wishes of each child whose
22 age and physical and emotional condition permits a meaningful
23 response, and the best interest of each child in the sibling group.
24 The court shall specify the factual basis for its finding that it is in
25 the best interest of each child to schedule a hearing pursuant to
26 Section 366.26 in 120 days for some or all of the members of the
27 sibling group.

28 If the child was removed initially under subdivision (g) of
29 Section 300 and the court finds by clear and convincing evidence
30 that the whereabouts of the parent are still unknown, or the parent
31 has failed to contact and visit the child, the court may schedule a
32 hearing pursuant to Section 366.26 within 120 days. The court
33 shall take into account any particular barriers to a parent's ability
34 to maintain contact with his or her child due to the parent's
35 incarceration or institutionalization. If the court finds by clear and
36 convincing evidence that the parent has been convicted of a felony
37 indicating parental unfitness, the court may schedule a hearing
38 pursuant to Section 366.26 within 120 days.

39 If the child had been placed under court supervision with a
40 previously noncustodial parent pursuant to Section 361.2, the court

1 shall determine whether supervision is still necessary. The court
2 may terminate supervision and transfer permanent custody to that
3 parent, as provided for by paragraph (1) of subdivision (b) of
4 Section 361.2.

5 In all other cases, the court shall direct that any reunification
6 services previously ordered shall continue to be offered to the
7 parent or legal guardian pursuant to the time periods set forth in
8 subdivision (a) of Section 361.5, provided that the court may
9 modify the terms and conditions of those services.

10 If the child is not returned to his or her parent or legal guardian,
11 the court shall determine whether reasonable services that were
12 designed to aid the parent or legal guardian in overcoming the
13 problems that led to the initial removal and the continued custody
14 of the child have been provided or offered to the parent or legal
15 guardian. The court shall order that those services be initiated,
16 continued, or terminated.

17 (f) The permanency hearing shall be held no later than 12
18 months after the date the child entered foster care, as that date is
19 determined pursuant to Section 361.49. At the permanency hearing,
20 the court shall determine the permanent plan for the child, which
21 shall include a determination of whether the child will be returned
22 to the child's home and, if so, when, within the time limits of
23 subdivision (a) of Section 361.5. The court shall order the return
24 of the child to the physical custody of his or her parent or legal
25 guardian unless the court finds, by a preponderance of the evidence,
26 that the return of the child to his or her parent or legal guardian
27 would create a substantial risk of detriment to the safety, protection,
28 or physical or emotional well-being of the child. The social worker
29 shall have the burden of establishing that detriment. At the
30 permanency hearing, the court shall consider the criminal history,
31 obtained pursuant to paragraph (1) of subdivision (f) of Section
32 16504.5, of the parent or legal guardian subsequent to the child's
33 removal to the extent that the criminal record is substantially related
34 to the welfare of the child or the parent or legal guardian's ability
35 to exercise custody and control regarding his or her child, provided
36 that the parent or legal guardian agreed to submit fingerprint images
37 to obtain criminal history information as part of the case plan. The
38 court shall also determine whether reasonable services that were
39 designed to aid the parent or legal guardian to overcome the
40 problems that led to the initial removal and continued custody of

1 the child have been provided or offered to the parent or legal
2 guardian. For each youth 16 years of age and older, the court shall
3 also determine whether services have been made available to assist
4 him or her in making the transition from foster care to independent
5 living. The failure of the parent or legal guardian to participate
6 regularly and make substantive progress in court-ordered treatment
7 programs shall be prima facie evidence that return would be
8 detrimental. In making its determination, the court shall review
9 and consider the social worker's report and recommendations and
10 the report and recommendations of any child advocate appointed
11 pursuant to Section 356.5, shall consider the efforts or progress,
12 or both, demonstrated by the parent or legal guardian and the extent
13 to which he or she availed himself or herself of services provided,
14 taking into account the particular barriers to an incarcerated or
15 institutionalized parent or legal guardian's access to those
16 court-mandated services and ability to maintain contact with his
17 or her child and shall make appropriate findings pursuant to
18 subdivision (a) of Section 366.

19 Regardless of whether the child is returned to his or her parent
20 or legal guardian, the court shall specify the factual basis for its
21 decision. If the child is not returned to a parent or legal guardian,
22 the court shall specify the factual basis for its conclusion that the
23 return would be detrimental. The court also shall make a finding
24 pursuant to subdivision (a) of Section 366. If the child is not
25 returned to his or her parent or legal guardian, the court shall
26 consider, and state for the record, in-state and out-of-state
27 placement options. If the child is placed out of the state, the court
28 shall make a determination whether the out-of-state placement
29 continues to be appropriate and in the best interests of the child.

30 (g) If the time period in which the court-ordered services were
31 provided has met or exceeded the time period set forth in
32 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
33 of Section 361.5, as appropriate, and a child is not returned to the
34 custody of a parent or legal guardian at the permanency hearing
35 held pursuant to subdivision (f), the court shall do one of the
36 following:

37 (1) Continue the case for up to six months for a permanency
38 review hearing, provided that the hearing shall occur within 18
39 months of the date the child was originally taken from the physical
40 custody of his or her parent or legal guardian. The court shall

1 continue the case only if it finds that there is a substantial
2 probability that the child will be returned to the physical custody
3 of his or her parent or legal guardian and safely maintained in the
4 home within the extended period of time or that reasonable services
5 have not been provided to the parent or legal guardian. For the
6 purposes of this section, in order to find a substantial probability
7 that the child will be returned to the physical custody of his or her
8 parent or legal guardian and safely maintained in the home within
9 the extended period of time, the court shall be required to find all
10 of the following:

11 (A) That the parent or legal guardian has consistently and
12 regularly contacted and visited with the child.

13 (B) That the parent or legal guardian has made significant
14 progress in resolving problems that led to the child's removal from
15 the home.

16 (C) The parent or legal guardian has demonstrated the capacity
17 and ability both to complete the objectives of his or her treatment
18 plan and to provide for the child's safety, protection, physical and
19 emotional well-being, and special needs.

20 For purposes of this subdivision, the court's decision to continue
21 the case based on a finding or substantial probability that the child
22 will be returned to the physical custody of his or her parent or legal
23 guardian is a compelling reason for determining that a hearing
24 held pursuant to Section 366.26 is not in the best interests of the
25 child.

26 The court shall inform the parent or legal guardian that if the
27 child cannot be returned home by the next permanency review
28 hearing, a proceeding pursuant to Section 366.26 may be instituted.
29 The court may not order that a hearing pursuant to Section 366.26
30 be held unless there is clear and convincing evidence that
31 reasonable services have been provided or offered to the parent or
32 legal guardian.

33 (2) Order that a hearing be held within 120 days, pursuant to
34 Section 366.26, but only if the court does not continue the case to
35 the permanency planning review hearing and there is clear and
36 convincing evidence that reasonable services have been provided
37 or offered to the parents or legal guardians. On and after January
38 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
39 if the child is a nonminor dependent, *unless the nonminor*

1 *dependent is an Indian child and tribal customary adoption is*
2 *recommended as the permanent plan.*

3 (3) Order that the child remain in long-term foster care, but only
4 if the court finds by clear and convincing evidence, based upon
5 the evidence already presented to it, including a recommendation
6 by the State Department of Social Services when it is acting as an
7 adoption agency or by a county adoption agency, that there is a
8 compelling reason for determining that a hearing held pursuant to
9 Section 366.26 is not in the best interest of the child because the
10 child is not a proper subject for adoption and has no one willing
11 to accept legal guardianship. For purposes of this section, a
12 recommendation by the State Department of Social Services when
13 it is acting as an adoption agency or by a county adoption agency
14 that adoption is not in the best interest of the child shall constitute
15 a compelling reason for the court's determination. That
16 recommendation shall be based on the present circumstances of
17 the child and shall not preclude a different recommendation at a
18 later date if the child's circumstances change. On and after January
19 1, 2012, the nonminor dependent's legal status as an adult is in
20 and of itself a compelling reason not to hold a hearing pursuant to
21 Section 366.26. The court may order that a nonminor dependent
22 who otherwise is eligible pursuant to Section 11403 remain in a
23 planned, permanent living arrangement.

24 If the court orders that a child who is 10 years of age or older
25 remain in long-term foster care, the court shall determine whether
26 the agency has made reasonable efforts to maintain the child's
27 relationships with individuals other than the child's siblings who
28 are important to the child, consistent with the child's best interests,
29 and may make any appropriate order to ensure that those
30 relationships are maintained.

31 If the child is not returned to his or her parent or legal guardian,
32 the court shall consider, and state for the record, in-state and
33 out-of-state options for permanent placement. If the child is placed
34 out of the state, the court shall make a determination whether the
35 out-of-state placement continues to be appropriate and in the best
36 interests of the child.

37 (h) In any case in which the court orders that a hearing pursuant
38 to Section 366.26 shall be held, it shall also order the termination
39 of reunification services to the parent or legal guardian. The court
40 shall continue to permit the parent or legal guardian to visit the

1 child pending the hearing unless it finds that visitation would be
2 detrimental to the child. The court shall make any other appropriate
3 orders to enable the child to maintain relationships with individuals,
4 other than the child's siblings, who are important to the child,
5 consistent with the child's best interests. When the court orders a
6 termination of reunification services to the parent or legal guardian,
7 it shall also order that the child's caregiver receive the child's birth
8 certificate in accordance with Sections 16010.4 and 16010.5.
9 Additionally, when the court orders a termination of reunification
10 services to the parent or legal guardian, it shall order, when
11 appropriate, that a child who is 16 years of age or older receive
12 his or her birth certificate.

13 (i) (1) Whenever a court orders that a hearing pursuant to
14 Section 366.26, including, when, in consultation with the child's
15 tribe, tribal customary adoption is recommended, shall be held, it
16 shall direct the agency supervising the child and the county
17 adoption agency, or the State Department of Social Services when
18 it is acting as an adoption agency, to prepare an assessment that
19 shall include:

20 (A) Current search efforts for an absent parent or parents or
21 legal guardians.

22 (B) A review of the amount of and nature of any contact between
23 the child and his or her parents or legal guardians and other
24 members of his or her extended family since the time of placement.
25 Although the extended family of each child shall be reviewed on
26 a case-by-case basis, "extended family" for the purpose of this
27 subparagraph shall include, but not be limited to, the child's
28 siblings, grandparents, aunts, and uncles.

29 (C) An evaluation of the child's medical, developmental,
30 scholastic, mental, and emotional status.

31 (D) A preliminary assessment of the eligibility and commitment
32 of any identified prospective adoptive parent or legal guardian,
33 including the prospective tribal customary adoptive parent,
34 particularly the caretaker, to include a social history including
35 screening for criminal records and prior referrals for child abuse
36 or neglect, the capability to meet the child's needs, and the
37 understanding of the legal and financial rights and responsibilities
38 of adoption and guardianship. If a proposed guardian is a relative
39 of the minor, the assessment shall also consider, but need not be

1 limited to, all of the factors specified in subdivision (a) of Section
2 361.3 and in Section 361.4.

3 (E) The relationship of the child to any identified prospective
4 adoptive parent or legal guardian, the duration and character of
5 the relationship, the degree of attachment of the child to the
6 prospective relative guardian or adoptive parent, the relative's or
7 adoptive parent's strong commitment to caring permanently for
8 the child, the motivation for seeking adoption or guardianship, a
9 statement from the child concerning placement and the adoption
10 or guardianship, and whether the child, if over 12 years of age,
11 has been consulted about the proposed relative guardianship
12 arrangements, unless the child's age or physical, emotional, or
13 other condition precludes his or her meaningful response, and if
14 so, a description of the condition.

15 (F) A description of efforts to be made to identify a prospective
16 adoptive parent or legal guardian, including, but not limited to,
17 child-specific recruitment and listing on an adoption exchange
18 within the state or out of the state.

19 (G) An analysis of the likelihood that the child will be adopted
20 if parental rights are terminated.

21 (H) In the case of an Indian child, in addition to subparagraphs
22 (A) to (G), inclusive, an assessment of the likelihood that the child
23 will be adopted, when, in consultation with the child's tribe, a
24 ~~customary~~ tribal *customary* adoption, as defined in Section 366.24,
25 is recommended. If tribal customary adoption is recommended,
26 the assessment shall include an analysis of both of the following:

27 (i) Whether tribal customary adoption would or would not be
28 detrimental to the Indian child and the reasons for reaching that
29 conclusion.

30 (ii) Whether the Indian child cannot or should not be returned
31 to the home of the Indian parent or Indian custodian and the reasons
32 for reaching that conclusion.

33 (2) (A) A relative caregiver's preference for legal guardianship
34 over adoption, if it is due to circumstances that do not include an
35 unwillingness to accept legal or financial responsibility for the
36 child, shall not constitute the sole basis for recommending removal
37 of the child from the relative caregiver for purposes of adoptive
38 placement.

39 (B) A relative caregiver shall be given information regarding
40 the permanency options of guardianship and adoption, including

1 the long-term benefits and consequences of each option, prior to
2 establishing legal guardianship or pursuing adoption. *If the*
3 *proposed permanent plan is guardianship with an approved*
4 *relative caregiver for a minor eligible for aid under the Kin-GAP*
5 *Program, as provided for in Article 4.7 (commencing with Section*
6 *11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver*
7 *shall be informed about the terms and conditions of the negotiated*
8 *agreement pursuant to Section 11387 and shall agree to its*
9 *execution prior to the hearing held pursuant to Section 366.26. A*
10 *copy of the executed negotiated agreement shall be attached to*
11 *the assessment.*

12 (j) If, at any hearing held pursuant to Section 366.26, a
13 guardianship is established for the minor with an approved relative
14 caregiver, and juvenile court dependency is subsequently
15 dismissed, the minor shall be eligible for aid under the Kin-GAP
16 Program, as provided for in Article 4.5 (commencing with Section
17 11360) or Article 4.7 (commencing with Section 11385), as
18 applicable, of Chapter 2 of Part 3 of Division 9.

19 (k) As used in this section, “relative” means an adult who is
20 related to the minor by blood, adoption, or affinity within the fifth
21 degree of kinship, including stepparents, stepsiblings, and all
22 relatives whose status is preceded by the words “great,”
23 “great-great,” or “grand,” or the spouse of any of those persons
24 even if the marriage was terminated by death or dissolution. *If the*
25 *proposed permanent plan is guardianship with an approved*
26 *relative caregiver for a minor eligible for aid under the Kin-GAP*
27 *Program, as provided for in Article 4.7 (commencing with Section*
28 *11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in*
29 *this section has the same meaning as “relative ” as defined in*
30 *subdivision (c) of Section 11391.*

31 (l) For purposes of this section, evidence of any of the following
32 circumstances may not, in and of itself, be deemed a failure to
33 provide or offer reasonable services:

34 (1) The child has been placed with a foster family that is eligible
35 to adopt a child, or has been placed in a preadoptive home.

36 (2) The case plan includes services to make and finalize a
37 permanent placement for the child if efforts to reunify fail.

38 (3) Services to make and finalize a permanent placement for
39 the child, if efforts to reunify fail, are provided concurrently with
40 services to reunify the family.

1 (m) The implementation and operation of the amendments to
2 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
3 shall be subject to appropriation through the budget process and
4 by phase, as provided in Section 366.35.

5 SEC. 21. Section 366.22 of the Welfare and Institutions Code,
6 as amended by Section 18 of Chapter 559 of the Statutes of 2010,
7 is amended to read:

8 ~~366.22. (a) When a case has been continued pursuant to~~
9 ~~paragraph (1) of subdivision (g) of Section 366.21, the permanency~~
10 ~~review hearing shall occur within 18 months after the date the~~
11 ~~child was originally removed from the physical custody of his or~~
12 ~~her parent or legal guardian. The court shall order the return of the~~
13 ~~child to the physical custody of his or her parent or legal guardian~~
14 ~~unless the court finds, by a preponderance of the evidence, that~~
15 ~~the return of the child to his or her parent or legal guardian would~~
16 ~~create a substantial risk of detriment to the safety, protection, or~~
17 ~~physical or emotional well-being of the child. The social worker~~
18 ~~shall have the burden of establishing that detriment. At the~~
19 ~~permanency review hearing, the court shall consider the criminal~~
20 ~~history, obtained pursuant to paragraph (1) of subdivision (f) of~~
21 ~~Section 16504.5, of the parent or legal guardian subsequent to the~~
22 ~~child's removal, to the extent that the criminal record is~~
23 ~~substantially related to the welfare of the child or the parent's or~~
24 ~~legal guardian's ability to exercise custody and control regarding~~
25 ~~his or her child, provided that the parent or legal guardian agreed~~
26 ~~to submit fingerprint images to obtain criminal history information~~
27 ~~as part of the case plan. The failure of the parent or legal guardian~~
28 ~~to participate regularly and make substantive progress in~~
29 ~~court-ordered treatment programs shall be prima facie evidence~~
30 ~~that return would be detrimental. In making its determination, the~~
31 ~~court shall review and consider the social worker's report and~~
32 ~~recommendations and the report and recommendations of any child~~
33 ~~advocate appointed pursuant to Section 356.5; shall consider the~~
34 ~~efforts or progress, or both, demonstrated by the parent or legal~~
35 ~~guardian and the extent to which he or she availed himself or~~
36 ~~herself of services provided, taking into account the particular~~
37 ~~barriers of an incarcerated or institutionalized parent or legal~~
38 ~~guardian's access to those court-mandated services and ability to~~
39 ~~maintain contact with his or her child; and shall make appropriate~~
40 ~~findings pursuant to subdivision (a) of Section 366.~~

1 Whether or not the child is returned to his or her parent or legal
2 guardian, the court shall specify the factual basis for its decision.
3 If the child is not returned to a parent or legal guardian, the court
4 shall specify the factual basis for its conclusion that return would
5 be detrimental. If the child is not returned to his or her parent or
6 legal guardian, the court shall consider, and state for the record,
7 in-state and out-of-state options for the child's permanent
8 placement. If the child is placed out of the state, the court shall
9 make a determination whether the out-of-state placement continues
10 to be appropriate and in the best interests of the child.

11 Unless the conditions in subdivision (b) are met and the child is
12 not returned to a parent or legal guardian at the permanency review
13 hearing, the court shall order that a hearing be held pursuant to
14 Section 366.26 in order to determine whether adoption, or, in the
15 case of an Indian child, in consultation with the child's tribe, tribal
16 customary adoption, guardianship, or long-term foster care is the
17 most appropriate plan for the child. On and after January 1, 2012,
18 a hearing pursuant to Section 366.26 shall not be ordered if the
19 child is a nonminor dependent, unless the nonminor dependent is
20 an Indian child with a permanent plan of tribal customary adoption.
21 However, if the court finds by clear and convincing evidence,
22 based on the evidence already presented to it, including a
23 recommendation by the State Department of Social Services when
24 it is acting as an adoption agency in counties that are not served
25 by a county adoption agency or by a licensed county adoption
26 agency, that there is a compelling reason, as described in paragraph
27 (3) of subdivision (g) of Section 366.21, for determining that a
28 hearing held under Section 366.26 is not in the best interest of the
29 child because the child is not a proper subject for adoption and has
30 no one willing to accept legal guardianship, then the court may,
31 only under these circumstances, order that the child remain in
32 long-term foster care. On and after January 1, 2012, the nonminor
33 dependent's legal status as an adult is in and of itself a compelling
34 reason not to hold a hearing pursuant to Section 366.26. The court
35 may order that a nonminor dependent who otherwise is eligible
36 pursuant to Section 11403 remain in a planned, permanent living
37 arrangement. If the court orders that a child who is 10 years of age
38 or older remain in long-term foster care, the court shall determine
39 whether the agency has made reasonable efforts to maintain the
40 child's relationships with individuals other than the child's siblings

1 who are important to the child, consistent with the child's best
2 interests, and may make any appropriate order to ensure that those
3 relationships are maintained. The hearing shall be held no later
4 than 120 days from the date of the permanency review hearing.
5 The court shall also order termination of reunification services to
6 the parent or legal guardian. The court shall continue to permit the
7 parent or legal guardian to visit the child unless it finds that
8 visitation would be detrimental to the child. The court shall
9 determine whether reasonable services have been offered or
10 provided to the parent or legal guardian. For purposes of this
11 subdivision, evidence of any of the following circumstances shall
12 not, in and of themselves, be deemed a failure to provide or offer
13 reasonable services:

14 (1) The child has been placed with a foster family that is eligible
15 to adopt a child, or has been placed in a preadoptive home.

16 (2) The case plan includes services to make and finalize a
17 permanent placement for the child if efforts to reunify fail.

18 (3) Services to make and finalize a permanent placement for
19 the child, if efforts to reunify fail, are provided concurrently with
20 services to reunify the family.

21 (b) If the child is not returned to a parent or legal guardian at
22 the permanency review hearing and the court determines by clear
23 and convincing evidence that the best interests of the child would
24 be met by the provision of additional reunification services to a
25 parent or legal guardian who is making significant and consistent
26 progress in a court-ordered residential substance abuse treatment
27 program, or a parent recently discharged from incarceration or
28 institutionalization and making significant and consistent progress
29 in establishing a safe home for the child's return, the court may
30 continue the case for up to six months for a subsequent permanency
31 review hearing, provided that the hearing shall occur within 24
32 months of the date the child was originally taken from the physical
33 custody of his or her parent or legal guardian. The court shall
34 continue the case only if it finds that there is a substantial
35 probability that the child will be returned to the physical custody
36 of his or her parent or legal guardian and safely maintained in the
37 home within the extended period of time or that reasonable services
38 have not been provided to the parent or legal guardian. For the
39 purposes of this section, in order to find a substantial probability
40 that the child will be returned to the physical custody of his or her

parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(1) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(2) That the parent or legal guardian has made significant and consistent progress in the prior 18 months in resolving problems that led to the child's removal from the home.

(3) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration or institutionalization, and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

For purposes of this subdivision, the court's decision to continue the case based on a finding or substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

The court shall inform the parent or legal guardian that if the child cannot be returned home by the subsequent permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court may not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(e) (1) Whenever a court orders that a hearing pursuant to Section 366.26, including when a tribal customary adoption is recommended, shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case

1 basis, “extended family” for the purposes of this subparagraph
2 shall include, but not be limited to, the child’s siblings,
3 grandparents, aunts, and uncles.

4 (C) An evaluation of the child’s medical, developmental,
5 scholastic, mental, and emotional status.

6 (D) A preliminary assessment of the eligibility and commitment
7 of any identified prospective adoptive parent or legal guardian,
8 particularly the caretaker, to include a social history including
9 screening for criminal records and prior referrals for child abuse
10 or neglect, the capability to meet the child’s needs, and the
11 understanding of the legal and financial rights and responsibilities
12 of adoption and guardianship. If a proposed legal guardian is a
13 relative of the minor, the assessment shall also consider, but need
14 not be limited to, all of the factors specified in subdivision (a) of
15 Section 361.3 and Section 361.4.

16 (E) The relationship of the child to any identified prospective
17 adoptive parent or legal guardian, the duration and character of
18 the relationship, the degree of attachment of the child to the
19 prospective relative guardian or adoptive parent, the relative’s or
20 adoptive parent’s strong commitment to caring permanently for
21 the child, the motivation for seeking adoption or legal guardianship,
22 a statement from the child concerning placement and the adoption
23 or legal guardianship, and whether the child, if over 12 years of
24 age, has been consulted about the proposed relative guardianship
25 arrangements, unless the child’s age or physical, emotional, or
26 other condition precludes his or her meaningful response, and if
27 so, a description of the condition.

28 (F) An analysis of the likelihood that the child will be adopted
29 if parental rights are terminated.

30 (G) In the case of an Indian child, in addition to subparagraphs
31 (A) to (F), inclusive, an assessment of the likelihood that the child
32 will be adopted, when, in consultation with the child’s tribe, a
33 tribal customary adoption, as defined in Section 366.24, is
34 recommended. If tribal customary adoption is recommended, the
35 assessment shall include an analysis of both of the following:

36 (i) Whether tribal customary adoption would or would not be
37 detrimental to the Indian child and the reasons for reaching that
38 conclusion.

1 (ii) ~~Whether the Indian child cannot or should not be returned~~
2 ~~to the home of the Indian parent or Indian custodian and the reasons~~
3 ~~for reaching that conclusion.~~

4 (2) (A) ~~A relative caregiver's preference for legal guardianship~~
5 ~~over adoption, if it is due to circumstances that do not include an~~
6 ~~unwillingness to accept legal or financial responsibility for the~~
7 ~~child, shall not constitute the sole basis for recommending removal~~
8 ~~of the child from the relative caregiver for purposes of adoptive~~
9 ~~placement.~~

10 (B) ~~A relative caregiver shall be given information regarding~~
11 ~~the permanency options of guardianship and adoption, including~~
12 ~~the long-term benefits and consequences of each option, prior to~~
13 ~~establishing legal guardianship or pursuing adoption. If the~~
14 ~~proposed permanent plan is guardianship with an approved relative~~
15 ~~caregiver for a minor eligible for aid under the Kin-GAP Program,~~
16 ~~as provided for in Article 4.7 (commencing with Section 11385)~~
17 ~~of Chapter 2 of Part 3 of Division 9, the relative caregiver shall~~
18 ~~be informed about the terms and conditions of the negotiated~~
19 ~~agreement pursuant to Section 11387 and shall agree to its~~
20 ~~execution prior to the hearing held pursuant to Section 366.26. A~~
21 ~~copy of the executed negotiated agreement shall be attached to the~~
22 ~~assessment.~~

23 (d) ~~This section shall become operative January 1, 1999. If at~~
24 ~~any hearing held pursuant to Section 366.26, a legal guardianship~~
25 ~~is established for the minor with an approved relative caregiver,~~
26 ~~and juvenile court dependency is subsequently dismissed, the minor~~
27 ~~shall be eligible for aid under the Kin-GAP Program, as provided~~
28 ~~for in Article 4.5 (commencing with Section 11360) or Article 4.7~~
29 ~~(commencing with Section 11385), as applicable, of Chapter 2 of~~
30 ~~Part 3 of Division 9.~~

31 (e) ~~As used in this section, "relative" means an adult who is~~
32 ~~related to the child by blood, adoption, or affinity within the fifth~~
33 ~~degree of kinship, including stepparents, stepsiblings, and all~~
34 ~~relatives whose status is preceded by the words "great,"~~
35 ~~"great-great," or "grand," or the spouse of any of those persons~~
36 ~~even if the marriage was terminated by death or dissolution. If the~~
37 ~~proposed permanent plan is guardianship with an approved relative~~
38 ~~caregiver for a minor eligible for aid under the Kin-GAP Program,~~
39 ~~as provided for in Article 4.7 (commencing with Section 11385)~~
40 ~~of Chapter 2 of Part 3 of Division 9, "relative" as used in this~~

1 ~~section has the same meaning as “relative” as defined in~~
2 ~~subdivision (c) of Section 11391.~~

3 ~~(f) The implementation and operation of the amendments to~~
4 ~~subdivision (a) enacted at the 2005–06 Regular Session shall be~~
5 ~~subject to appropriation through the budget process and by phase,~~
6 ~~as provided in Section 366.35.~~

7 ~~(g) This section shall remain in effect only until January 1, 2014,~~
8 ~~and as of that date is repealed, unless a later enacted statute, that~~
9 ~~is enacted before January 1, 2014, deletes or extends that date.~~

10 SEC. 22. ~~Section 366.22 of the Welfare and Institutions Code,~~
11 ~~as amended by Section 19 of Chapter 559 of the Statutes of 2010,~~
12 ~~is amended to read:~~

13 ~~366.22. (a) When a case has been continued pursuant to~~
14 ~~paragraph (1) of subdivision (g) of Section 366.21, the permanency~~
15 ~~review hearing shall occur within 18 months after the date the~~
16 ~~child was originally removed from the physical custody of his or~~
17 ~~her parent or legal guardian. The court shall order the return of the~~
18 ~~child to the physical custody of his or her parent or legal guardian~~
19 ~~unless the court finds, by a preponderance of the evidence, that~~
20 ~~the return of the child to his or her parent or legal guardian would~~
21 ~~create a substantial risk of detriment to the safety, protection, or~~
22 ~~physical or emotional well-being of the child. The social worker~~
23 ~~shall have the burden of establishing that detriment. At the~~
24 ~~permanency review hearing, the court shall consider the criminal~~
25 ~~history, obtained pursuant to paragraph (1) of subdivision (f) of~~
26 ~~Section 16504.5, of the parent or legal guardian subsequent to the~~
27 ~~child’s removal, to the extent that the criminal record is~~
28 ~~substantially related to the welfare of the child or the parent’s or~~
29 ~~legal guardian’s ability to exercise custody and control regarding~~
30 ~~his or her child, provided that the parent or legal guardian agreed~~
31 ~~to submit fingerprint images to obtain criminal history information~~
32 ~~as part of the case plan. The failure of the parent or legal guardian~~
33 ~~to participate regularly and make substantive progress in~~
34 ~~court-ordered treatment programs shall be prima facie evidence~~
35 ~~that return would be detrimental. In making its determination, the~~
36 ~~court shall review and consider the social worker’s report and~~
37 ~~recommendations and the report and recommendations of any child~~
38 ~~advocate appointed pursuant to Section 356.5; shall consider the~~
39 ~~efforts or progress, or both, demonstrated by the parent or legal~~
40 ~~guardian and the extent to which he or she availed himself or~~

1 herself of services provided, taking into account the particular
2 barriers of an incarcerated or institutionalized parent or legal
3 guardian's access to those court-mandated services and ability to
4 maintain contact with his or her child; and shall make appropriate
5 findings pursuant to subdivision (a) of Section 366.

6 Whether or not the child is returned to his or her parent or legal
7 guardian, the court shall specify the factual basis for its decision.
8 If the child is not returned to a parent or legal guardian, the court
9 shall specify the factual basis for its conclusion that return would
10 be detrimental. If the child is not returned to his or her parent or
11 legal guardian, the court shall consider, and state for the record,
12 in-state and out-of-state options for the child's permanent
13 placement. If the child is placed out of the state, the court shall
14 make a determination whether the out-of-state placement continues
15 to be appropriate and in the best interests of the child.

16 Unless the conditions in subdivision (b) are met and the child is
17 not returned to a parent or legal guardian at the permanency review
18 hearing, the court shall order that a hearing be held pursuant to
19 Section 366.26 in order to determine whether adoption,
20 guardianship, or long-term foster care is the most appropriate plan
21 for the child. On and after January 1, 2012, a hearing pursuant to
22 Section 366.26 shall not be ordered if the child is a nonminor
23 dependent. However, if the court finds by clear and convincing
24 evidence, based on the evidence already presented to it, including
25 a recommendation by the State Department of Social Services
26 when it is acting as an adoption agency in counties that are not
27 served by a county adoption agency or by a licensed county
28 adoption agency, that there is a compelling reason, as described
29 in paragraph (3) of subdivision (g) of Section 366.21, for
30 determining that a hearing held under Section 366.26 is not in the
31 best interest of the child because the child is not a proper subject
32 for adoption and has no one willing to accept legal guardianship,
33 then the court may, only under these circumstances, order that the
34 child remain in long-term foster care. On and after January 1, 2012,
35 the nonminor dependent's legal status as an adult is in and of itself
36 a compelling reason not to hold a hearing pursuant to Section
37 366.26. The court may order that a nonminor dependent who
38 otherwise is eligible pursuant to Section 11403 remain in a planned,
39 permanent living arrangement. If the court orders that a child who
40 is 10 years of age or older remain in long-term foster care, the

1 court shall determine whether the agency has made reasonable
2 efforts to maintain the child's relationships with individuals other
3 than the child's siblings who are important to the child, consistent
4 with the child's best interests, and may make any appropriate order
5 to ensure that those relationships are maintained. The hearing shall
6 be held no later than 120 days from the date of the permanency
7 review hearing. The court shall also order termination of
8 reunification services to the parent or legal guardian. The court
9 shall continue to permit the parent or legal guardian to visit the
10 child unless it finds that visitation would be detrimental to the
11 child. The court shall determine whether reasonable services have
12 been offered or provided to the parent or legal guardian. For
13 purposes of this subdivision, evidence of any of the following
14 circumstances shall not, in and of themselves, be deemed a failure
15 to provide or offer reasonable services:

16 (1) The child has been placed with a foster family that is eligible
17 to adopt a child, or has been placed in a preadoptive home.

18 (2) The case plan includes services to make and finalize a
19 permanent placement for the child if efforts to reunify fail.

20 (3) Services to make and finalize a permanent placement for
21 the child, if efforts to reunify fail, are provided concurrently with
22 services to reunify the family.

23 (b) If the child is not returned to a parent or legal guardian at
24 the permanency review hearing and the court determines by clear
25 and convincing evidence that the best interests of the child would
26 be met by the provision of additional reunification services to a
27 parent or legal guardian who is making significant and consistent
28 progress in a court-ordered residential substance abuse treatment
29 program, or a parent recently discharged from incarceration or
30 institutionalization and making significant and consistent progress
31 in establishing a safe home for the child's return, the court may
32 continue the case for up to six months for a subsequent permanency
33 review hearing, provided that the hearing shall occur within 24
34 months of the date the child was originally taken from the physical
35 custody of his or her parent or legal guardian. The court shall
36 continue the case only if it finds that there is a substantial
37 probability that the child will be returned to the physical custody
38 of his or her parent or legal guardian and safely maintained in the
39 home within the extended period of time or that reasonable services
40 have not been provided to the parent or legal guardian. For the

purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

(1) That the parent or legal guardian has consistently and regularly contacted and visited with the child.

(2) That the parent or legal guardian has made significant and consistent progress in the prior 18 months in resolving problems that led to the child's removal from the home.

(3) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration or institutionalization, and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

For purposes of this subdivision, the court's decision to continue the case based on a finding of substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interests of the child.

The court shall inform the parent or legal guardian that if the child cannot be returned home by the subsequent permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court may not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(e) (1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents.

(B) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the

1 extended family of each child shall be reviewed on a case-by-case
2 basis, “extended family” for the purposes of this subparagraph
3 shall include, but not be limited to, the child’s siblings,
4 grandparents, aunts, and uncles.

5 (C) An evaluation of the child’s medical, developmental,
6 scholastic, mental, and emotional status.

7 (D) A preliminary assessment of the eligibility and commitment
8 of any identified prospective adoptive parent or legal guardian,
9 particularly the caretaker, to include a social history including
10 screening for criminal records and prior referrals for child abuse
11 or neglect, the capability to meet the child’s needs, and the
12 understanding of the legal and financial rights and responsibilities
13 of adoption and guardianship. If a proposed legal guardian is a
14 relative of the minor, the assessment shall also consider, but need
15 not be limited to, all of the factors specified in subdivision (a) of
16 Section 361.3 and Section 361.4.

17 (E) The relationship of the child to any identified prospective
18 adoptive parent or legal guardian, the duration and character of
19 the relationship, the degree of attachment of the child to the
20 prospective relative guardian or adoptive parent, the relative’s or
21 adoptive parent’s strong commitment to caring permanently for
22 the child, the motivation for seeking adoption or legal guardianship,
23 a statement from the child concerning placement and the adoption
24 or legal guardianship, and whether the child, if over 12 years of
25 age, has been consulted about the proposed relative guardianship
26 arrangements, unless the child’s age or physical, emotional, or
27 other condition precludes his or her meaningful response, and if
28 so, a description of the condition.

29 (F) An analysis of the likelihood that the child will be adopted
30 if parental rights are terminated.

31 (2) (A) A relative caregiver’s preference for legal guardianship
32 over adoption, if it is due to circumstances that do not include an
33 unwillingness to accept legal or financial responsibility for the
34 child, shall not constitute the sole basis for recommending removal
35 of the child from the relative caregiver for purposes of adoptive
36 placement.

37 (B) A relative caregiver shall be given information regarding
38 the permanency options of guardianship and adoption, including
39 the long-term benefits and consequences of each option, prior to
40 establishing legal guardianship or pursuing adoption. If the

1 proposed permanent plan is guardianship with an approved relative
2 caregiver for a minor eligible for aid under the Kin-GAP Program;
3 as provided for in Article 4.7 (commencing with Section 11385)
4 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
5 be informed about the terms and conditions of the negotiated
6 agreement pursuant to Section 11387 and shall agree to its
7 execution prior to the hearing held pursuant to Section 366.26. A
8 copy of the executed negotiated agreement shall be attached to the
9 assessment.

10 (d) ~~This section shall become operative January 1, 1999. If at~~
11 ~~any hearing held pursuant to Section 366.26, a legal guardianship~~
12 ~~is established for the minor with an approved relative caregiver,~~
13 ~~and juvenile court dependency is subsequently dismissed, the minor~~
14 ~~shall be eligible for aid under the Kin-GAP Program, as provided~~
15 ~~for in Article 4.5 (commencing with Section 11360) or Article 4.7~~
16 ~~(commencing with Section 11385), as applicable, of Chapter 2 of~~
17 ~~Part 3 of Division 9.~~

18 (e) ~~As used in this section, “relative” means an adult who is~~
19 ~~related to the child by blood, adoption, or affinity within the fifth~~
20 ~~degree of kinship, including stepparents, stepsiblings, and all~~
21 ~~relatives whose status is preceded by the words “great,”~~
22 ~~“great-great,” or “grand,” or the spouse of any of those persons~~
23 ~~even if the marriage was terminated by death or dissolution. If the~~
24 ~~proposed permanent plan is guardianship with an approved relative~~
25 ~~caregiver for a minor eligible for aid under the Kin-GAP Program,~~
26 ~~as provided for in Article 4.7 (commencing with Section 11385)~~
27 ~~of Chapter 2 of Part 3 of Division 9, “relative” as used in this~~
28 ~~section has the same meaning as “relative” as defined in~~
29 ~~subdivision (e) of Section 11391.~~

30 (f) ~~The implementation and operation of the amendments to~~
31 ~~subdivision (a) enacted at the 2005–06 Regular Session shall be~~
32 ~~subject to appropriation through the budget process and by phase,~~
33 ~~as provided in Section 366.35.~~

34 (g) ~~This section shall become operative on January 1, 2014.~~

35 *SEC. 21. Section 366.22 of the Welfare and Institutions Code*
36 *is amended to read:*

37 366.22. (a) When a case has been continued pursuant to
38 paragraph (1) of subdivision (g) of Section 366.21, the permanency
39 review hearing shall occur within 18 months after the date the
40 child was originally removed from the physical custody of his or

1 her parent or legal guardian. The court shall order the return of the
2 child to the physical custody of his or her parent or legal guardian
3 unless the court finds, by a preponderance of the evidence, that
4 the return of the child to his or her parent or legal guardian would
5 create a substantial risk of detriment to the safety, protection, or
6 physical or emotional well-being of the child. The social worker
7 shall have the burden of establishing that detriment. At the
8 permanency review hearing, the court shall consider the criminal
9 history, obtained pursuant to paragraph (1) of subdivision (f) of
10 Section 16504.5, of the parent or legal guardian subsequent to the
11 child's removal, to the extent that the criminal record is
12 substantially related to the welfare of the child or the parent's or
13 legal guardian's ability to exercise custody and control regarding
14 his or her child, provided that the parent or legal guardian agreed
15 to submit fingerprint images to obtain criminal history information
16 as part of the case plan. The failure of the parent or legal guardian
17 to participate regularly and make substantive progress in
18 court-ordered treatment programs shall be prima facie evidence
19 that return would be detrimental. In making its determination, the
20 court shall review and consider the social worker's report and
21 recommendations and the report and recommendations of any child
22 advocate appointed pursuant to Section 356.5; shall consider the
23 efforts or progress, or both, demonstrated by the parent or legal
24 guardian and the extent to which he or she availed himself or
25 herself of services provided, taking into account the particular
26 barriers of an incarcerated or institutionalized parent or legal
27 guardian's access to those court-mandated services and ability to
28 maintain contact with his or her child; and shall make appropriate
29 findings pursuant to subdivision (a) of Section 366.

30 Whether or not the child is returned to his or her parent or legal
31 guardian, the court shall specify the factual basis for its decision.
32 If the child is not returned to a parent or legal guardian, the court
33 shall specify the factual basis for its conclusion that return would
34 be detrimental. If the child is not returned to his or her parent or
35 legal guardian, the court shall consider, and state for the record,
36 in-state and out-of-state options for the child's permanent
37 placement. If the child is placed out of the state, the court shall
38 make a determination whether the out-of-state placement continues
39 to be appropriate and in the best interests of the child.

1 Unless the conditions in subdivision (b) are met and the child is
2 not returned to a parent or legal guardian at the permanency review
3 hearing, the court shall order that a hearing be held pursuant to
4 Section 366.26 in order to determine whether adoption, or, in the
5 case of an Indian child, in consultation with the child's tribe, tribal
6 customary adoption, guardianship, or long-term foster care is the
7 most appropriate plan for the child. On and after January 1, 2012,
8 a hearing pursuant to Section 366.26 shall not be ordered if the
9 child is a nonminor dependent. However, if the court finds by clear
10 and convincing evidence, based on the evidence already presented
11 to it, including a recommendation by the State Department of
12 Social Services when it is acting as an adoption agency or by a
13 county adoption agency, that there is a compelling reason, as
14 described in paragraph (3) of subdivision (g) of Section 366.21,
15 for determining that a hearing held under Section 366.26 is not in
16 the best interest of the child because the child is not a proper
17 subject for adoption and has no one willing to accept legal
18 guardianship, then the court may, only under these circumstances,
19 order that the child remain in long-term foster care. On and after
20 January 1, 2012, the nonminor dependent's legal status as an adult
21 is in and of itself a compelling reason not to hold a hearing pursuant
22 to Section 366.26. The court may order that a nonminor dependent
23 who otherwise is eligible pursuant to Section 11403 remain in a
24 planned, permanent living arrangement. If the court orders that a
25 child who is 10 years of age or older remain in long-term foster
26 care, the court shall determine whether the agency has made
27 reasonable efforts to maintain the child's relationships with
28 individuals other than the child's siblings who are important to the
29 child, consistent with the child's best interests, and may make any
30 appropriate order to ensure that those relationships are maintained.
31 The hearing shall be held no later than 120 days from the date of
32 the permanency review hearing. The court shall also order
33 termination of reunification services to the parent or legal guardian.
34 The court shall continue to permit the parent or legal guardian to
35 visit the child unless it finds that visitation would be detrimental
36 to the child. The court shall determine whether reasonable services
37 have been offered or provided to the parent or legal guardian. For
38 purposes of this subdivision, evidence of any of the following
39 circumstances shall not, in and of themselves, be deemed a failure
40 to provide or offer reasonable services:

1 (1) The child has been placed with a foster family that is eligible
2 to adopt a child, or has been placed in a preadoptive home.

3 (2) The case plan includes services to make and finalize a
4 permanent placement for the child if efforts to reunify fail.

5 (3) Services to make and finalize a permanent placement for
6 the child, if efforts to reunify fail, are provided concurrently with
7 services to reunify the family.

8 (b) If the child is not returned to a parent or legal guardian at
9 the permanency review hearing and the court determines by clear
10 and convincing evidence that the best interests of the child would
11 be met by the provision of additional reunification services to a
12 parent or legal guardian who is making significant and consistent
13 progress in a court-ordered residential substance abuse treatment
14 program, or a parent recently discharged from incarceration or
15 institutionalization and making significant and consistent progress
16 in establishing a safe home for the child's return, the court may
17 continue the case for up to six months for a subsequent permanency
18 review hearing, provided that the hearing shall occur within 24
19 months of the date the child was originally taken from the physical
20 custody of his or her parent or legal guardian. The court shall
21 continue the case only if it finds that there is a substantial
22 probability that the child will be returned to the physical custody
23 of his or her parent or legal guardian and safely maintained in the
24 home within the extended period of time or that reasonable services
25 have not been provided to the parent or legal guardian. For the
26 purposes of this section, in order to find a substantial probability
27 that the child will be returned to the physical custody of his or her
28 parent or legal guardian and safely maintained in the home within
29 the extended period of time, the court shall be required to find all
30 of the following:

31 (1) That the parent or legal guardian has consistently and
32 regularly contacted and visited with the child.

33 (2) That the parent or legal guardian has made significant and
34 consistent progress in the prior 18 months in resolving problems
35 that led to the child's removal from the home.

36 (3) The parent or legal guardian has demonstrated the capacity
37 and ability both to complete the objectives of his or her substance
38 abuse treatment plan as evidenced by reports from a substance
39 abuse provider as applicable, or complete a treatment plan
40 postdischarge from incarceration or institutionalization, and to

1 provide for the child's safety, protection, physical and emotional
2 well-being, and special needs.

3 For purposes of this subdivision, the court's decision to continue
4 the case based on a finding or substantial probability that the child
5 will be returned to the physical custody of his or her parent or legal
6 guardian is a compelling reason for determining that a hearing
7 held pursuant to Section 366.26 is not in the best interests of the
8 child.

9 The court shall inform the parent or legal guardian that if the
10 child cannot be returned home by the subsequent permanency
11 review hearing, a proceeding pursuant to Section 366.26 may be
12 instituted. The court may not order that a hearing pursuant to
13 Section 366.26 be held unless there is clear and convincing
14 evidence that reasonable services have been provided or offered
15 to the parent or legal guardian.

16 (c) (1) Whenever a court orders that a hearing pursuant to
17 Section 366.26, including when a tribal customary adoption is
18 recommended, shall be held, it shall direct the agency supervising
19 the child and the county adoption agency, or the State Department
20 of Social Services when it is acting as an adoption agency, to
21 prepare an assessment that shall include:

22 (A) Current search efforts for an absent parent or parents.

23 (B) A review of the amount of and nature of any contact between
24 the child and his or her parents and other members of his or her
25 extended family since the time of placement. Although the
26 extended family of each child shall be reviewed on a case-by-case
27 basis, "extended family" for the purposes of this subparagraph
28 shall include, but not be limited to, the child's siblings,
29 grandparents, aunts, and uncles.

30 (C) An evaluation of the child's medical, developmental,
31 scholastic, mental, and emotional status.

32 (D) A preliminary assessment of the eligibility and commitment
33 of any identified prospective adoptive parent or legal guardian,
34 particularly the caretaker, to include a social history including
35 screening for criminal records and prior referrals for child abuse
36 or neglect, the capability to meet the child's needs, and the
37 understanding of the legal and financial rights and responsibilities
38 of adoption and guardianship. If a proposed legal guardian is a
39 relative of the minor, the assessment shall also consider, but need

1 not be limited to, all of the factors specified in subdivision (a) of
2 Section 361.3 and Section 361.4.

3 (E) The relationship of the child to any identified prospective
4 adoptive parent or legal guardian, the duration and character of
5 the relationship, the degree of attachment of the child to the
6 prospective relative guardian or adoptive parent, the relative's or
7 adoptive parent's strong commitment to caring permanently for
8 the child, the motivation for seeking adoption or legal guardianship,
9 a statement from the child concerning placement and the adoption
10 or legal guardianship, and whether the child, if over 12 years of
11 age, has been consulted about the proposed relative guardianship
12 arrangements, unless the child's age or physical, emotional, or
13 other condition precludes his or her meaningful response, and if
14 so, a description of the condition.

15 (F) An analysis of the likelihood that the child will be adopted
16 if parental rights are terminated.

17 (G) In the case of an Indian child, in addition to subparagraphs
18 (A) to (F), inclusive, an assessment of the likelihood that the child
19 will be adopted, when, in consultation with the child's tribe, a
20 tribal customary adoption, as defined in Section 366.24, is
21 recommended. If tribal customary adoption is recommended, the
22 assessment shall include an analysis of both of the following:

23 (i) Whether tribal customary adoption would or would not be
24 detrimental to the Indian child and the reasons for reaching that
25 conclusion.

26 (ii) Whether the Indian child cannot or should not be returned
27 to the home of the Indian parent or Indian custodian and the reasons
28 for reaching that conclusion.

29 (2) (A) A relative caregiver's preference for legal guardianship
30 over adoption, if it is due to circumstances that do not include an
31 unwillingness to accept legal or financial responsibility for the
32 child, shall not constitute the sole basis for recommending removal
33 of the child from the relative caregiver for purposes of adoptive
34 placement.

35 (B) A relative caregiver shall be given information regarding
36 the permanency options of guardianship and adoption, including
37 the long-term benefits and consequences of each option, prior to
38 establishing legal guardianship or pursuing adoption. *If the*
39 *proposed permanent plan is guardianship with an approved*
40 *relative caregiver for a minor eligible for aid under the Kin-GAP*

1 *Program, as provided for in Article 4.7 (commencing with Section*
2 *11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver*
3 *shall be informed about the terms and conditions of the negotiated*
4 *agreement pursuant to Section 11387 and shall agree to its*
5 *execution prior to the hearing held pursuant to Section 366.26. A*
6 *copy of the executed negotiated agreement shall be attached to*
7 *the assessment.*

8 (d) This section shall become operative January 1, 1999. If at
9 any hearing held pursuant to Section 366.26, a legal guardianship
10 is established for the minor with an approved relative caregiver,
11 and juvenile court dependency is subsequently dismissed, the minor
12 shall be eligible for aid under the Kin-GAP Program, as provided
13 for in Article 4.5 (commencing with Section 11360) or Article 4.7
14 (commencing with Section 11385), as applicable, of Chapter 2 of
15 Part 3 of Division 9.

16 (e) As used in this section, “relative” means an adult who is
17 related to the child by blood, adoption, or affinity within the fifth
18 degree of kinship, including stepparents, stepsiblings, and all
19 relatives whose status is preceded by the words “great,”
20 “great-great,” or “grand,” or the spouse of any of those persons
21 even if the marriage was terminated by death or dissolution. *If the*
22 *proposed permanent plan is guardianship with an approved*
23 *relative caregiver for a minor eligible for aid under the Kin-GAP*
24 *Program, as provided for in Article 4.7 (commencing with Section*
25 *11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in*
26 *this section has the same meaning as “relative ” as defined in*
27 *subdivision (c) of Section 11391.*

28 (f) The implementation and operation of the amendments to
29 subdivision (a) enacted at the 2005–06 Regular Session shall be
30 subject to appropriation through the budget process and by phase,
31 as provided in Section 366.35.

32 ~~SEC. 23.—Section 366.24 of the Welfare and Institutions Code~~
33 ~~is amended to read:~~

34 ~~366.24. (a) (1) For purposes of this section, “tribal customary~~
35 ~~adoption” means adoption by and through the tribal custom,~~
36 ~~traditions, or law of an Indian child’s tribe. Termination of parental~~
37 ~~rights is not required to effect the tribal customary adoption.~~

38 ~~(2) For purposes of this section, “Indian child” also includes a~~
39 ~~nonminor dependent as described in subdivision (v) of Section~~
40 ~~11400, unless the nonminor dependent has elected not to be~~

1 considered an Indian child pursuant to subdivision (b) of Section
2 224.1.

3 ~~(b) Whenever an assessment is ordered pursuant to Section~~
4 ~~361.5, 366.21, 366.22, 366.25, or 366.26 for Indian children, the~~
5 ~~assessment shall address the option of tribal customary adoption.~~

6 ~~(c) For purposes of Section 366.26, in the case of tribal~~
7 ~~customary adoptions, all of the following apply:~~

8 ~~(1) The child's tribe or the tribe's designee shall conduct a tribal~~
9 ~~customary adoptive home study prior to final approval of the tribal~~
10 ~~customary adoptive placement.~~

11 ~~(A) If a tribal designee is conducting the home study, the~~
12 ~~designee shall do so in consultation with the Indian child's tribe.~~
13 ~~The designee may include a licensed county adoption agency, the~~
14 ~~State Department of Social Services when it is acting as an~~
15 ~~adoption agency in counties not served by a county adoption~~
16 ~~agency, or a California-licensed adoption agency. Any tribal~~
17 ~~designee must be an entity that is authorized to request a search~~
18 ~~of the Child Abuse Central Index and, if necessary, a check of any~~
19 ~~other state's child abuse and neglect registry, and must be an entity~~
20 ~~that is authorized to request a search for state and federal level~~
21 ~~criminal offender records information through the Department of~~
22 ~~Justice.~~

23 ~~(B) The standard for the evaluation of the prospective adoptive~~
24 ~~parents' home shall be the prevailing social and cultural standard~~
25 ~~of the child's tribe. The home study shall include an evaluation of~~
26 ~~the background, safety, and health information of the adoptive~~
27 ~~home, including the biological, psychological, and social factors~~
28 ~~of the prospective adoptive parent or parents, and an assessment~~
29 ~~of the commitment, capability, and suitability of the prospective~~
30 ~~adoptive parent or parents to meet the child's needs.~~

31 ~~(2) In all cases, an in-state check of the Child Abuse Central~~
32 ~~Index and, if necessary, a check of any other state's child abuse~~
33 ~~and neglect registry shall be conducted. If the tribe chooses a~~
34 ~~designee to conduct the home study, the designee shall perform a~~
35 ~~check of the Child Abuse Central Index pursuant to Section 1522.1~~
36 ~~of the Health and Safety Code as it applies to prospective adoptive~~
37 ~~parents and persons over 18 years of age residing in their~~
38 ~~household. If the tribe conducts its own home study, the agency~~
39 ~~that has the placement and care responsibility of the child shall~~
40 ~~perform the check.~~

1 ~~(3) (A) In all cases prior to final approval of the tribal customary~~
2 ~~adoptive placement, a state and federal criminal background check~~
3 ~~through the Department of Justice shall be conducted on the~~
4 ~~prospective tribal customary adoptive parents and on persons over~~
5 ~~18 years of age residing in their household.~~

6 ~~(B) If the tribe chooses a designee to conduct the home study,~~
7 ~~the designee shall perform the state and federal criminal~~
8 ~~background check required pursuant to subparagraph (A) through~~
9 ~~the Department of Justice prior to final approval of the adoptive~~
10 ~~placement.~~

11 ~~(C) If the tribe conducts its own home study, the public adoption~~
12 ~~agency that is otherwise authorized to obtain criminal background~~
13 ~~information for the purpose of adoption shall perform the state and~~
14 ~~federal criminal background check required pursuant to~~
15 ~~subparagraph (A) through the Department of Justice prior to final~~
16 ~~approval of the adoptive placement.~~

17 ~~(D) An individual who is the subject of a background check~~
18 ~~conducted pursuant to this paragraph may be provided by the entity~~
19 ~~performing the background check with a copy of his or her state~~
20 ~~or federal level criminal offender record information search~~
21 ~~response as provided to that entity by the Department of Justice if~~
22 ~~the entity has denied a criminal background clearance based on~~
23 ~~this information and the individual makes a written request to the~~
24 ~~entity for a copy specifying an address to which it is to be sent.~~
25 ~~The state or federal level criminal offender record information~~
26 ~~search response shall not be modified or altered from its form or~~
27 ~~content as provided by the Department of Justice and shall be~~
28 ~~provided to the address specified by the individual in his or her~~
29 ~~written request. The entity shall retain a copy of the individual's~~
30 ~~written request and the response and date provided.~~

31 ~~(4) If federal or state law provides that tribes may conduct all~~
32 ~~required background checks for prospective adoptive parents, the~~
33 ~~tribally administered background checks shall satisfy the~~
34 ~~requirements of this section, so long as the standards for the~~
35 ~~background checks are the same as those applied to all other~~
36 ~~prospective adoptive parents in the State of California.~~

37 ~~(5) Under no circumstances shall final approval be granted for~~
38 ~~an adoptive placement in any home if the prospective adoptive~~
39 ~~parent or any adult living in the prospective tribal customary~~
40 ~~adoptive home has any of the following:~~

1 ~~(A) A felony conviction for child abuse or neglect, spousal~~
2 ~~abuse, crimes against a child, including child pornography, or a~~
3 ~~crime involving violence, including rape, sexual assault, or~~
4 ~~homicide, but not including other physical assault and battery. For~~
5 ~~purposes of this subdivision, crimes involving violence means~~
6 ~~those violent crimes contained in clause (i) of subparagraph (A)~~
7 ~~and subparagraph (B), or paragraph (1) of, subdivision (g) of~~
8 ~~Section 1522 of the Health and Safety Code.~~

9 ~~(B) A felony conviction that occurred within the last five years~~
10 ~~for physical assault, battery, or a drug-related offense.~~

11 ~~(6) If the tribe identifies tribal customary adoption as the~~
12 ~~permanent placement plan for the Indian child, the court may~~
13 ~~continue the selection and implementation hearing governed by~~
14 ~~Section 366.26 for a period not to exceed 120 days to permit the~~
15 ~~tribe to complete the process for tribal customary adoption and~~
16 ~~file with the court a tribal customary adoption order evidencing~~
17 ~~that a tribal customary adoption has been completed. The tribe~~
18 ~~shall file with the court the tribal customary adoption order no less~~
19 ~~than 20 days prior to the date set by the court for the continued~~
20 ~~selection and implementation hearing. The department shall file~~
21 ~~with the court the addendum selection and implementation hearing~~
22 ~~court report no less than seven days prior to the date set by the~~
23 ~~court for the continued selection and implementation hearing. The~~
24 ~~court shall have discretion to grant an additional continuance to~~
25 ~~the tribe for filing a tribal customary adoption order up to, but not~~
26 ~~exceeding, 60 days. If the child's tribe does not file the tribal~~
27 ~~customary adoption order within the designated time period, the~~
28 ~~court shall make new findings and orders pursuant to subdivision~~
29 ~~(b) of Section 366.26 and this subdivision to determine the best~~
30 ~~permanent plan for the child.~~

31 ~~(7) The child, birth parents, or Indian custodian and the tribal~~
32 ~~customary adoptive parents and their counsel, if applicable, may~~
33 ~~present evidence to the tribe regarding the tribal customary~~
34 ~~adoption and the child's best interest.~~

35 ~~(8) Upon the court affording full faith and credit to the tribal~~
36 ~~customary adoption order and the tribe's approval of the home~~
37 ~~study, the child shall be eligible for tribal customary adoptive~~
38 ~~placement. The agency that has placement and care responsibility~~
39 ~~of the child shall be authorized to make a tribal customary adoptive~~
40 ~~placement and sign a tribal customary adoptive placement~~

1 ~~agreement and, thereafter, shall sign the adoption assistance~~
2 ~~agreement pursuant to subdivision (g) of Section 16120. The~~
3 ~~prospective adoptive parent or parents desiring to adopt the child~~
4 ~~may then file the petition for adoption. The agency shall supervise~~
5 ~~the adoptive placement for a period of six months unless either of~~
6 ~~the following circumstances exists:~~

7 ~~(A) The child to be adopted is a foster child of the prospective~~
8 ~~adoptive parents whose foster care placement has been supervised~~
9 ~~by an agency before the signing of the adoptive placement~~
10 ~~agreement in which case the supervisory period may be shortened~~
11 ~~by one month for each full month that the child has been in foster~~
12 ~~care with the family.~~

13 ~~(B) The child to be adopted is placed with a relative with whom~~
14 ~~he or she has an established relationship.~~

15 ~~(9) All licensed public adoption agencies shall cooperate with~~
16 ~~and assist the department in devising a plan that will effectuate~~
17 ~~the effective and discreet transmission to tribal customary adoptees~~
18 ~~or prospective tribal customary adoptive parents of pertinent~~
19 ~~medical information reported to the department or the licensed~~
20 ~~public adoption agency, upon the request of the person reporting~~
21 ~~the medical information.~~

22 ~~(A) A licensed public adoption agency may not place a child~~
23 ~~for tribal customary adoption unless a written report on the child's~~
24 ~~medical background and, if available, the medical background on~~
25 ~~the child's biological parents, so far as ascertainable, has been~~
26 ~~submitted to the prospective tribal customary adoptive parents and~~
27 ~~they have acknowledged in writing the receipt of the report.~~

28 ~~(B) The report on the child's background shall contain all known~~
29 ~~diagnostic information, including current medical reports on the~~
30 ~~child, psychological evaluations, and scholastic information, as~~
31 ~~well as all known information regarding the child's developmental~~
32 ~~history.~~

33 ~~(10) The tribal customary adoption order shall include, but not~~
34 ~~be limited to, a description of (A) the modification of the legal~~
35 ~~relationship of the birth parents or Indian custodian and the child,~~
36 ~~including contact, if any, between the child and the birth parents~~
37 ~~or Indian custodian, responsibilities of the birth parents or Indian~~
38 ~~custodian, and the rights of inheritance of the child and (B) the~~
39 ~~child's legal relationship with the tribe. The order shall not include~~
40 ~~any child support obligation from the birth parents or Indian~~

1 ~~custodian. There shall be a conclusive presumption that any~~
2 ~~parental rights or obligations not specified in the tribal customary~~
3 ~~adoption order shall vest in the tribal customary adoptive parents.~~

4 ~~(11) Prior consent to a permanent plan of tribal customary~~
5 ~~adoption of an Indian child shall not be required of an Indian parent~~
6 ~~or Indian custodian whose parental relationship to the child will~~
7 ~~be modified by the tribal customary adoption.~~

8 ~~(12) After the prospective adoptive parent or parents desiring~~
9 ~~to adopt the child have filed the adoption petition, the agency that~~
10 ~~has placement, care, and responsibility for the child shall submit~~
11 ~~to the court, a full and final report of the facts of the proposed~~
12 ~~tribal customary adoption. The requisite elements of the final court~~
13 ~~report shall be those specified for court reports in the department's~~
14 ~~regulations governing agency adoptions.~~

15 ~~(13) Notwithstanding any other provision of law, after the tribal~~
16 ~~customary adoption order has been issued and afforded full faith~~
17 ~~and credit by the state court, supervision of the adoptive placement~~
18 ~~has been completed, and the state court has issued a final decree~~
19 ~~of adoption, the tribal customary adoptive parents shall have all~~
20 ~~of the rights and privileges afforded to, and are subject to all the~~
21 ~~duties of, any other adoptive parent or parents pursuant to the laws~~
22 ~~of this state.~~

23 ~~(14) Consistent with Section 366.3, after the tribal customary~~
24 ~~adoption has been afforded full faith and credit and a final adoption~~
25 ~~decree has been issued, the court shall terminate its jurisdiction~~
26 ~~over the Indian child.~~

27 ~~(15) Nothing in this section is intended to prevent the transfer~~
28 ~~of those proceedings to a tribal court where transfer is otherwise~~
29 ~~permitted under applicable law.~~

30 ~~(d) The following disclosure provisions shall apply to tribal~~
31 ~~customary adoptions:~~

32 ~~(1) The petition, agreement, order, report to the court from any~~
33 ~~investigating agency, and any power of attorney filed in a tribal~~
34 ~~customary adoption proceeding is not open to inspection by any~~
35 ~~person other than the parties to the proceeding and their attorneys~~
36 ~~and the department, except upon the written authority of the judge~~
37 ~~of the juvenile court. A judge may not authorize anyone to inspect~~
38 ~~the petition, agreement, order, report to the court from any~~
39 ~~investigating agency, and any power of attorney except in~~

1 ~~exceptional circumstances and for good cause approaching the~~
2 ~~necessitous.~~

3 ~~(2) Except as otherwise permitted or required by statute, neither~~
4 ~~the department nor any licensed adoption agency shall release~~
5 ~~information that would identify persons who receive, or have~~
6 ~~received, tribal customary adoption services. However, employees~~
7 ~~of the department and licensed adoption agencies shall release to~~
8 ~~the State Department of Social Services any requested information,~~
9 ~~including identifying information, for the purpose of recordkeeping~~
10 ~~and monitoring, evaluation, and regulation of the provision of~~
11 ~~tribal customary adoption services.~~

12 ~~(3) The department and any licensed adoption agency may,~~
13 ~~upon written authorization for the release of specified information~~
14 ~~by the subject of that information, share information regarding a~~
15 ~~prospective tribal customary adoptive parent or birth parent with~~
16 ~~other social service agencies, including the department and other~~
17 ~~licensed adoption agencies, or providers of health care as defined~~
18 ~~in Section 56.05 of the Civil Code.~~

19 ~~(4) Notwithstanding any other law, the department and any other~~
20 ~~licensed adoption agency may furnish information relating to a~~
21 ~~tribal customary adoption petition or to a child in the custody of~~
22 ~~the department or any licensed public adoption agency to the~~
23 ~~juvenile court, county welfare department, public welfare agency,~~
24 ~~private welfare agency licensed by the department, provider of~~
25 ~~foster care services, potential adoptive parents, or provider of~~
26 ~~health care as defined in Section 56.05 of the Civil Code, if it is~~
27 ~~believed the child's welfare will be promoted thereby.~~

28 ~~(5) The department and any licensed adoption agency may make~~
29 ~~tribal customary adoption case records, including identifying~~
30 ~~information, available for research purposes, provided that the~~
31 ~~research will not result in the disclosure of the identity of the child~~
32 ~~or the parties to the tribal customary adoption to anyone other than~~
33 ~~the entity conducting the research.~~

34 ~~(e) This section shall remain operative only to the extent that~~
35 ~~compliance with its provisions does not conflict with federal law~~
36 ~~as a condition of receiving funding under Title IV-E or the federal~~
37 ~~Social Security Act (42 U.S.C. Sec. 670 et seq.).~~

38 ~~(f) The Judicial Council shall adopt rules of court and necessary~~
39 ~~forms required to implement tribal customary adoption as a~~
40 ~~permanent plan for dependent Indian children. The Judicial Council~~

1 shall study California's tribal customary adoption provisions and
2 their effects on children, birth parents, adoptive parents, Indian
3 custodians, tribes, and the court, and shall report all of its findings
4 to the Legislature on or before January 1, 2013. The report shall
5 include, but not be limited to, the following:

6 (1) The number of families served and the number of completed
7 tribal customary adoptions.

8 (2) The length of time it takes to complete a tribal customary
9 adoption.

10 (3) The challenges faced by social workers, court, and tribes in
11 completing tribal customary adoptions.

12 (4) The benefits or detriments to Indian children from a tribal
13 customary adoption.

14 (g) This section shall remain in effect only until January 1, 2014,
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before January 1, 2014, deletes or extends that date.

17 SEC. 22. Section 366.24 of the Welfare and Institutions Code
18 is amended to read:

19 366.24. (a) (1) For purposes of this section, "tribal customary
20 adoption" means adoption by and through the tribal custom,
21 traditions, or law of an Indian child's tribe. Termination of parental
22 rights is not required to effect the tribal customary adoption.

23 (2) For purposes of this section, "Indian child" also includes
24 a nonminor dependent as described in subdivision (v) of Section
25 11400, unless the nonminor dependent has elected not to be
26 considered an Indian child pursuant to subdivision (b) of Section
27 224.1.

28 (b) Whenever an assessment is ordered pursuant to Section
29 361.5, 366.21, 366.22, 366.25, or 366.26 for Indian children, the
30 assessment shall address the option of tribal customary adoption.

31 (c) For purposes of Section 366.26, in the case of tribal
32 customary adoptions, all of the following apply:

33 (1) The child's tribe or the tribe's designee shall conduct a tribal
34 customary adoptive home study prior to final approval of the tribal
35 customary adoptive placement.

36 (A) If a tribal designee is conducting the home study, the
37 designee shall do so in consultation with the Indian child's tribe.
38 The designee may include a county adoption agency, the State
39 Department of Social Services when it is acting as an adoption
40 agency, or a California-licensed adoption agency. Any tribal

1 designee must be an entity that is authorized to request a search
2 of the Child Abuse Central Index and, if necessary, a check of any
3 other state's child abuse and neglect registry, and must be an entity
4 that is authorized to request a search for state and federal level
5 criminal offender records information through the Department of
6 Justice.

7 (B) The standard for the evaluation of the prospective adoptive
8 parents' home shall be the prevailing social and cultural standard
9 of the child's tribe. The home study shall include an evaluation of
10 the background, safety, and health information of the adoptive
11 home, including the biological, psychological, and social factors
12 of the prospective adoptive parent or parents, and an assessment
13 of the commitment, capability, and suitability of the prospective
14 adoptive parent or parents to meet the child's needs.

15 (2) In all cases, an in-state check of the Child Abuse Central
16 Index and, if necessary, a check of any other state's child abuse
17 and neglect registry shall be conducted. If the tribe chooses a
18 designee to conduct the home study, the designee shall perform a
19 check of the Child Abuse Central Index pursuant to Section 1522.1
20 of the Health and Safety Code as it applies to prospective adoptive
21 parents and persons over 18 years of age residing in their
22 household. If the tribe conducts its own home study, the agency
23 that has the placement and care responsibility of the child shall
24 perform the check.

25 (3) (A) In all cases prior to final approval of the tribal customary
26 adoptive placement, a state and federal criminal background check
27 through the Department of Justice shall be conducted on the
28 prospective tribal customary adoptive parents and on persons over
29 18 years of age residing in their household.

30 (B) If the tribe chooses a designee to conduct the home study,
31 the designee shall perform the state and federal criminal
32 background check required pursuant to subparagraph (A) through
33 the Department of Justice prior to final approval of the adoptive
34 placement.

35 (C) If the tribe conducts its own home study, the public adoption
36 agency that is otherwise authorized to obtain criminal background
37 information for the purpose of adoption shall perform the state and
38 federal criminal background check required pursuant to
39 subparagraph (A) through the Department of Justice prior to final
40 approval of the adoptive placement.

1 (D) An individual who is the subject of a background check
2 conducted pursuant to this paragraph may be provided by the entity
3 performing the background check with a copy of his or her state
4 or federal level criminal offender record information search
5 response as provided to that entity by the Department of Justice if
6 the entity has denied a criminal background clearance based on
7 this information and the individual makes a written request to the
8 entity for a copy specifying an address to which it is to be sent.
9 The state or federal level criminal offender record information
10 search response shall not be modified or altered from its form or
11 content as provided by the Department of Justice and shall be
12 provided to the address specified by the individual in his or her
13 written request. The entity shall retain a copy of the individual's
14 written request and the response and date provided.

15 (4) If federal or state law provides that tribes may conduct all
16 required background checks for prospective adoptive parents, the
17 tribally administered background checks shall satisfy the
18 requirements of this section, so long as the standards for the
19 background checks are the same as those applied to all other
20 prospective adoptive parents in the State of California.

21 (5) Under no circumstances shall final approval be granted for
22 an adoptive placement in any home if the prospective adoptive
23 parent or any adult living in the prospective tribal customary
24 adoptive home has any of the following:

25 (A) A felony conviction for child abuse or neglect, spousal
26 abuse, crimes against a child, including child pornography, or a
27 crime involving violence, including rape, sexual assault, or
28 homicide, but not including other physical assault and battery. For
29 purposes of this subdivision, crimes involving violence means
30 those violent crimes contained in clause (i) of subparagraph (A)
31 and subparagraph (B), or paragraph (1) of, subdivision (g) of
32 Section 1522 of the Health and Safety Code.

33 (B) A felony conviction that occurred within the last five years
34 for physical assault, battery, or a drug-related offense.

35 (6) If the tribe identifies tribal customary adoption as the
36 permanent placement plan for the Indian child, the court may
37 continue the selection and implementation hearing governed by
38 Section 366.26 for a period not to exceed 120 days to permit the
39 tribe to complete the process for tribal customary adoption and
40 file with the court a tribal customary adoption order evidencing

1 that a tribal customary adoption has been completed. The tribe
2 shall file with the court the tribal customary adoption order no less
3 than 20 days prior to the date set by the court for the continued
4 selection and implementation hearing. The department shall file
5 with the court the addendum selection and implementation hearing
6 court report no less than seven days prior to the date set by the
7 court for the continued selection and implementation hearing. The
8 court shall have discretion to grant an additional continuance to
9 the tribe for filing a tribal customary adoption order up to, but not
10 exceeding, 60 days. If the child's tribe does not file the tribal
11 customary adoption order within the designated time period, the
12 court shall make new findings and orders pursuant to subdivision
13 (b) of Section 366.26 and this subdivision to determine the best
14 permanent plan for the child.

15 (7) The child, birth parents, or Indian custodian and the tribal
16 customary adoptive parents and their counsel, if applicable, may
17 present evidence to the tribe regarding the tribal customary
18 adoption and the child's best interest.

19 (8) Upon the court affording full faith and credit to the tribal
20 customary adoption order and the tribe's approval of the home
21 study, the child shall be eligible for tribal customary adoptive
22 placement. The agency that has placement and care responsibility
23 of the child shall be authorized to make a tribal customary adoptive
24 placement and sign a tribal customary adoptive placement
25 agreement and, thereafter, shall sign the adoption assistance
26 agreement pursuant to subdivision (g) of Section 16120. The
27 prospective adoptive parent or parents desiring to adopt the child
28 may then file the petition for adoption. The agency shall supervise
29 the adoptive placement for a period of six months unless either of
30 the following circumstances exists:

31 (A) The child to be adopted is a foster child of the prospective
32 adoptive parents whose foster care placement has been supervised
33 by an agency before the signing of the adoptive placement
34 agreement in which case the supervisory period may be shortened
35 by one month for each full month that the child has been in foster
36 care with the family.

37 (B) The child to be adopted is placed with a relative with whom
38 he or she has an established relationship.

39 (9) All licensed public adoption agencies shall cooperate with
40 and assist the department in devising a plan that will effectuate

1 the effective and discreet transmission to tribal customary adoptees
2 or prospective tribal customary adoptive parents of pertinent
3 medical information reported to the department or the licensed
4 public adoption agency, upon the request of the person reporting
5 the medical information.

6 (A) A licensed public adoption agency may not place a child
7 for tribal customary adoption unless a written report on the child's
8 medical background and, if available, the medical background on
9 the child's biological parents, so far as ascertainable, has been
10 submitted to the prospective tribal customary adoptive parents and
11 they have acknowledged in writing the receipt of the report.

12 (B) The report on the child's background shall contain all known
13 diagnostic information, including current medical reports on the
14 child, psychological evaluations, and scholastic information, as
15 well as all known information regarding the child's developmental
16 history.

17 (10) The tribal customary adoption order shall include, but not
18 be limited to, a description of (A) the modification of the legal
19 relationship of the birth parents or Indian custodian and the child,
20 including contact, if any, between the child and the birth parents
21 or Indian custodian, responsibilities of the birth parents or Indian
22 custodian, and the rights of inheritance of the child and (B) the
23 child's legal relationship with the tribe. The order shall not include
24 any child support obligation from the birth parents or Indian
25 custodian. There shall be a conclusive presumption that any
26 parental rights or obligations not specified in the tribal customary
27 adoption order shall vest in the tribal customary adoptive parents.

28 (11) Prior consent to a permanent plan of tribal customary
29 adoption of an Indian child shall not be required of an Indian parent
30 or Indian custodian whose parental relationship to the child will
31 be modified by the tribal customary adoption.

32 (12) After the prospective adoptive parent or parents desiring
33 to adopt the child have filed the adoption petition, the agency that
34 has placement, care, and responsibility for the child shall submit
35 to the court, a full and final report of the facts of the proposed
36 tribal customary adoption. The requisite elements of the final court
37 report shall be those specified for court reports in the department's
38 regulations governing agency adoptions.

39 (13) Notwithstanding any other provision of law, after the tribal
40 customary adoption order has been issued and afforded full faith

1 and credit by the state court, supervision of the adoptive placement
2 has been completed, and the state court has issued a final decree
3 of adoption, the tribal customary adoptive parents shall have all
4 of the rights and privileges afforded to, and are subject to all the
5 duties of, any other adoptive parent or parents pursuant to the laws
6 of this state.

7 (14) Consistent with Section 366.3, after the tribal customary
8 adoption has been afforded full faith and credit and a final adoption
9 decree has been issued, the court shall terminate its jurisdiction
10 over the Indian child.

11 (15) Nothing in this section is intended to prevent the transfer
12 of those proceedings to a tribal court where transfer is otherwise
13 permitted under applicable law.

14 (d) The following disclosure provisions shall apply to tribal
15 customary adoptions:

16 (1) The petition, agreement, order, report to the court from any
17 investigating agency, and any power of attorney filed in a tribal
18 customary adoption proceeding is not open to inspection by any
19 person other than the parties to the proceeding and their attorneys
20 and the department, except upon the written authority of the judge
21 of the juvenile court. A judge may not authorize anyone to inspect
22 the petition, agreement, order, report to the court from any
23 investigating agency, and any power of attorney except in
24 exceptional circumstances and for good cause approaching the
25 necessitous.

26 (2) Except as otherwise permitted or required by statute, neither
27 the department, county adoption agency, nor any licensed adoption
28 agency shall release information that would identify persons who
29 receive, or have received, tribal customary adoption services.
30 However, employees of the department, county adoption agencies,
31 and licensed adoption agencies shall release to the State
32 Department of Social Services any requested information, including
33 identifying information, for the purpose of recordkeeping and
34 monitoring, evaluation, and regulation of the provision of tribal
35 customary adoption services.

36 (3) The department, county adoption agency, or licensed
37 adoption agency may, upon written authorization for the release
38 of specified information by the subject of that information, share
39 information regarding a prospective tribal customary adoptive
40 parent or birth parent with other social service agencies, including

1 the department, county adoption agencies, and other licensed
2 adoption agencies, or providers of health care as defined in Section
3 56.05 of the Civil Code.

4 (4) Notwithstanding any other law, the department, county
5 adoption agency, or licensed adoption agency may furnish
6 information relating to a tribal customary adoption petition or to
7 a child in the custody of the department or any public adoption
8 agency to the juvenile court, county welfare department, public
9 welfare agency, private welfare agency licensed by the department,
10 provider of foster care services, potential adoptive parents, or
11 provider of health care as defined in Section 56.05 of the Civil
12 Code, if it is believed the child's welfare will be promoted thereby.

13 (5) The department, county adoption agency, or licensed
14 adoption agency may make tribal customary adoption case records,
15 including identifying information, available for research purposes,
16 provided that the research will not result in the disclosure of the
17 identity of the child or the parties to the tribal customary adoption
18 to anyone other than the entity conducting the research.

19 (e) This section shall remain operative only to the extent that
20 compliance with its provisions does not conflict with federal law
21 as a condition of receiving funding under Title IV-E or the federal
22 Social Security Act (42 U.S.C. Sec. 670 et seq.).

23 (f) The Judicial Council shall adopt rules of court and necessary
24 forms required to implement tribal customary adoption as a
25 permanent plan for dependent Indian children. The Judicial Council
26 shall study California's tribal customary adoption provisions and
27 their effects on children, birth parents, adoptive parents, Indian
28 custodians, tribes, and the court, and shall report all of its findings
29 to the Legislature on or before January 1, 2013. The report shall
30 include, but not be limited to, the following:

31 (1) The number of families served and the number of completed
32 tribal customary adoptions.

33 (2) The length of time it takes to complete a tribal customary
34 adoption.

35 (3) The challenges faced by social workers, court, and tribes in
36 completing tribal customary adoptions.

37 (4) The benefits or detriments to Indian children from a tribal
38 customary adoption.

1 ~~SEC. 24. Section 366.25 of the Welfare and Institutions Code,~~
2 ~~as amended by Section 20 of Chapter 559 of the Statutes of 2010,~~
3 ~~is amended to read:~~

4 ~~366.25. (a) (1) When a case has been continued pursuant to~~
5 ~~subdivision (b) of Section 366.22, the subsequent permanency~~
6 ~~review hearing shall occur within 24 months after the date the~~
7 ~~child was originally removed from the physical custody of his or~~
8 ~~her parent or legal guardian. The court shall order the return of the~~
9 ~~child to the physical custody of his or her parent or legal guardian~~
10 ~~unless the court finds, by a preponderance of the evidence, that~~
11 ~~the return of the child to his or her parent or legal guardian would~~
12 ~~create a substantial risk of detriment to the safety, protection, or~~
13 ~~physical or emotional well-being of the child. The social worker~~
14 ~~shall have the burden of establishing that detriment. At the~~
15 ~~subsequent permanency review hearing, the court shall consider~~
16 ~~the criminal history, obtained pursuant to paragraph (1) of~~
17 ~~subdivision (f) of Section 16504.5, of the parent or legal guardian~~
18 ~~subsequent to the child's removal to the extent that the criminal~~
19 ~~record is substantially related to the welfare of the child or parent~~
20 ~~or legal guardian's ability to exercise custody and control regarding~~
21 ~~his or her child provided that the parent or legal guardian agreed~~
22 ~~to submit fingerprint images to obtain criminal history information~~
23 ~~as part of the case plan. The failure of the parent or legal guardian~~
24 ~~to participate regularly and make substantive progress in~~
25 ~~court-ordered treatment programs shall be prima facie evidence~~
26 ~~that return would be detrimental. In making its determination, the~~
27 ~~court shall review and consider the social worker's report and~~
28 ~~recommendations and the report and recommendations of any child~~
29 ~~advocate appointed pursuant to Section 356.5; shall consider the~~
30 ~~efforts or progress, or both, demonstrated by the parent or legal~~
31 ~~guardian and the extent to which he or she availed himself or~~
32 ~~herself of services provided; and shall make appropriate findings~~
33 ~~pursuant to subdivision (a) of Section 366.~~

34 ~~(2) Whether or not the child is returned to his or her parent or~~
35 ~~legal guardian, the court shall specify the factual basis for its~~
36 ~~decision. If the child is not returned to a parent or legal guardian,~~
37 ~~the court shall specify the factual basis for its conclusion that return~~
38 ~~would be detrimental. If the child is not returned to his or her~~
39 ~~parents or legal guardian, the court shall consider and state for the~~
40 ~~record, in-state and out-of-state options for the child's permanent~~

1 placement. If the child is placed out of the state, the court shall
2 make a determination whether the out-of-state placement continues
3 to be appropriate and in the best interests of the child.

4 (3) If the child is not returned to a parent or legal guardian at
5 the subsequent permanency review hearing, the court shall order
6 that a hearing be held pursuant to Section 366.26 in order to
7 determine whether adoption, or, in the case of an Indian child,
8 tribal customary adoption, guardianship, or long-term foster care
9 is the most appropriate plan for the child. On and after January 1,
10 2012, a hearing pursuant to Section 366.26 shall not be ordered if
11 the child is a nonminor dependent, unless the nonminor dependent
12 is an Indian child and tribal customary adoption is recommended
13 as the permanent plan. However, if the court finds by clear and
14 convincing evidence, based on the evidence already presented to
15 it, including a recommendation by the State Department of Social
16 Services when it is acting as an adoption agency in counties that
17 are not served by a county adoption agency or by a licensed county
18 adoption agency, that there is a compelling reason, as described
19 in paragraph (3) of subdivision (g) of Section 366.21, for
20 determining that a hearing held under Section 366.26 is not in the
21 best interest of the child because the child is not a proper subject
22 for adoption or, in the case of an Indian child, tribal customary
23 adoption, and has no one willing to accept legal guardianship, then
24 the court may, only under these circumstances, order that the child
25 remain in long-term foster care. On and after January 1, 2012, the
26 nonminor dependent's legal status as an adult is in and of itself a
27 compelling reason not to hold a hearing pursuant to Section 366.26.
28 The court may order that a nonminor dependent who otherwise is
29 eligible pursuant to Section 11403 remain in a planned, permanent
30 living arrangement. If the court orders that a child who is 10 years
31 of age or older remain in long-term foster care, the court shall
32 determine whether the agency has made reasonable efforts to
33 maintain the child's relationships with individuals other than the
34 child's siblings who are important to the child, consistent with the
35 child's best interests, and may make any appropriate order to ensure
36 that those relationships are maintained. The hearing shall be held
37 no later than 120 days from the date of the subsequent permanency
38 review hearing. The court shall also order termination of
39 reunification services to the parent or legal guardian. The court
40 shall continue to permit the parent or legal guardian to visit the

1 child unless it finds that visitation would be detrimental to the
2 child. The court shall determine whether reasonable services have
3 been offered or provided to the parent or legal guardian. For
4 purposes of this subdivision, evidence of any of the following
5 circumstances shall not, in and of themselves, be deemed a failure
6 to provide or offer reasonable services:

7 (A) The child has been placed with a foster family that is eligible
8 to adopt a child, or has been placed in a preadoptive home.

9 (B) The case plan includes services to make and finalize a
10 permanent placement for the child if efforts to reunify fail.

11 (C) Services to make and finalize a permanent placement for
12 the child, if efforts to reunify fail, are provided concurrently with
13 services to reunify the family.

14 (b) (1) Whenever a court orders that a hearing pursuant to
15 Section 366.26 shall be held, it shall direct the agency supervising
16 the child and the licensed county adoption agency, or the State
17 Department of Social Services when it is acting as an adoption
18 agency in counties that are not served by a county adoption agency,
19 to prepare an assessment that shall include:

20 (A) Current search efforts for an absent parent or parents.

21 (B) A review of the amount of, and nature of, any contact
22 between the child and his or her parents and other members of his
23 or her extended family since the time of placement. Although the
24 extended family of each child shall be reviewed on a case-by-case
25 basis, “extended family” for the purposes of this paragraph shall
26 include, but not be limited to, the child’s siblings, grandparents,
27 aunts, and uncles.

28 (C) An evaluation of the child’s medical, developmental,
29 scholastic, mental, and emotional status.

30 (D) A preliminary assessment of the eligibility and commitment
31 of any identified prospective adoptive parent or legal guardian,
32 including a prospective tribal customary adoptive parent,
33 particularly the caretaker, to include a social history including
34 screening for criminal records and prior referrals for child abuse
35 or neglect, the capability to meet the child’s needs, and the
36 understanding of the legal and financial rights and responsibilities
37 of adoption and guardianship. If a proposed legal guardian is a
38 relative of the minor, the assessment shall also consider, but need
39 not be limited to, all of the factors specified in subdivision (a) of
40 Section 361.3 and in Section 361.4.

1 ~~(E) The relationship of the child to any identified prospective~~
2 ~~adoptive parent or legal guardian, including a prospective tribal~~
3 ~~customary adoptive parent, the duration and character of the~~
4 ~~relationship, the degree of attachment of the child to the prospective~~
5 ~~relative guardian or adoptive parent, the relative's or adoptive~~
6 ~~parent's strong commitment to caring permanently for the child,~~
7 ~~the motivation for seeking adoption or legal guardianship, a~~
8 ~~statement from the child concerning placement and the adoption~~
9 ~~or legal guardianship, and whether the child, if over 12 years of~~
10 ~~age, has been consulted about the proposed relative guardianship~~
11 ~~arrangements, unless the child's age or physical, emotional, or~~
12 ~~other condition precludes his or her meaningful response, and if~~
13 ~~so, a description of the condition.~~

14 ~~(F) An analysis of the likelihood that the child will be adopted~~
15 ~~if parental rights are terminated.~~

16 ~~(G) In the case of an Indian child, in addition to subparagraphs~~
17 ~~(A) to (F), inclusive, an assessment of the likelihood that the child~~
18 ~~will be adopted, when, in consultation with the child's tribe, a~~
19 ~~tribal customary adoption, as defined in Section 366.24, is~~
20 ~~recommended. If tribal customary adoption is recommended, the~~
21 ~~assessment shall include an analysis of both of the following:~~

22 ~~(i) Whether tribal customary adoption would or would not be~~
23 ~~detrimental to the Indian child and the reasons for reaching that~~
24 ~~conclusion.~~

25 ~~(ii) Whether the Indian child cannot or should not be returned~~
26 ~~to the home of the Indian parent or Indian custodian and the reasons~~
27 ~~for reaching that conclusion.~~

28 ~~(2) (A) A relative caregiver's preference for legal guardianship~~
29 ~~over adoption, if it is due to circumstances that do not include an~~
30 ~~unwillingness to accept legal or financial responsibility for the~~
31 ~~child, shall not constitute the sole basis for recommending removal~~
32 ~~of the child from the relative caregiver for purposes of adoptive~~
33 ~~placement.~~

34 ~~(B) A relative caregiver shall be given information regarding~~
35 ~~the permanency options of guardianship and adoption, including~~
36 ~~the long-term benefits and consequences of each option, prior to~~
37 ~~establishing legal guardianship or pursuing adoption. If the~~
38 ~~proposed permanent plan is guardianship with an approved relative~~
39 ~~caregiver for a minor eligible for aid under the Kin-GAP Program,~~
40 ~~as provided for in Article 4.7 (commencing with Section 11385)~~

1 of Chapter 2 of Part 3 of Division 9, the relative caregiver shall
2 be informed about the terms and conditions of the negotiated
3 agreement pursuant to Section 11387 and shall agree to its
4 execution prior to the hearing held pursuant to Section 366.26. A
5 copy of the executed negotiated agreement shall be attached to the
6 assessment.

7 (e) If, at any hearing held pursuant to Section 366.26, a
8 guardianship is established for the minor with an approved relative
9 caregiver, and juvenile court dependency is subsequently
10 dismissed, the minor shall be eligible for aid under the Kin-GAP
11 Program, as provided for in Article 4.5 (commencing with Section
12 11360) or Article 4.7 (commencing with Section 11385), as
13 applicable, of Chapter 2 of Part 3 of Division 9.

14 (d) As used in this section, “relative” means an adult who is
15 related to the minor by blood, adoption, or affinity within the fifth
16 degree of kinship, including stepparents, stepsiblings, and all
17 relatives whose status is preceded by the words “great,”
18 “great-great,” or “grand,” or the spouse of any of those persons
19 even if the marriage was terminated by death or dissolution. If the
20 proposed permanent plan is guardianship with an approved relative
21 caregiver for a minor eligible for aid under the Kin-GAP Program,
22 as provided for in Article 4.7 (commencing with Section 11385)
23 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
24 section has the same meaning as “relative” as defined in
25 subdivision (e) of Section 11391.

26 (e) The implementation and operation of subdivision (a) enacted
27 at the 2005–06 Regular Session shall be subject to appropriation
28 through the budget process and by phase, as provided in Section
29 366.35.

30 (f) This section shall remain in effect only until January 1, 2014,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2014, deletes or extends that date.

33 SEC. 25. Section 366.25 of the Welfare and Institutions Code,
34 as amended by Section 21 of Chapter 559 of the Statutes of 2010,
35 is amended to read:

36 366.25. (a) (1) When a case has been continued pursuant to
37 subdivision (b) of Section 366.22, the subsequent permanency
38 review hearing shall occur within 24 months after the date the
39 child was originally removed from the physical custody of his or
40 her parent or legal guardian. The court shall order the return of the

1 child to the physical custody of his or her parent or legal guardian
2 unless the court finds, by a preponderance of the evidence, that
3 the return of the child to his or her parent or legal guardian would
4 create a substantial risk of detriment to the safety, protection, or
5 physical or emotional well-being of the child. The social worker
6 shall have the burden of establishing that detriment. At the
7 subsequent permanency review hearing, the court shall consider
8 the criminal history, obtained pursuant to paragraph (1) of
9 subdivision (f) of Section 16504.5, of the parent or legal guardian
10 subsequent to the child's removal to the extent that the criminal
11 record is substantially related to the welfare of the child or parent
12 or legal guardian's ability to exercise custody and control regarding
13 his or her child provided that the parent or legal guardian agreed
14 to submit fingerprint images to obtain criminal history information
15 as part of the case plan. The failure of the parent or legal guardian
16 to participate regularly and make substantive progress in
17 court-ordered treatment programs shall be prima facie evidence
18 that return would be detrimental. In making its determination, the
19 court shall review and consider the social worker's report and
20 recommendations and the report and recommendations of any child
21 advocate appointed pursuant to Section 356.5; shall consider the
22 efforts or progress, or both, demonstrated by the parent or legal
23 guardian and the extent to which he or she availed himself or
24 herself of services provided; and shall make appropriate findings
25 pursuant to subdivision (a) of Section 366.

26 (2) Whether or not the child is returned to his or her parent or
27 legal guardian, the court shall specify the factual basis for its
28 decision. If the child is not returned to a parent or legal guardian,
29 the court shall specify the factual basis for its conclusion that return
30 would be detrimental. If the child is not returned to his or her
31 parents or legal guardian, the court shall consider and state for the
32 record, in-state and out-of-state options for the child's permanent
33 placement. If the child is placed out of the state, the court shall
34 make a determination whether the out-of-state placement continues
35 to be appropriate and in the best interests of the child.

36 (3) If the child is not returned to a parent or legal guardian at
37 the subsequent permanency review hearing, the court shall order
38 that a hearing be held pursuant to Section 366.26 in order to
39 determine whether adoption, guardianship, or long-term foster
40 care is the most appropriate plan for the child. On and after January

1 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
2 if the child is a nonminor dependent. However, if the court finds
3 by clear and convincing evidence, based on the evidence already
4 presented to it, including a recommendation by the State
5 Department of Social Services when it is acting as an adoption
6 agency in counties that are not served by a county adoption agency
7 or by a licensed county adoption agency, that there is a compelling
8 reason, as described in paragraph (3) of subdivision (g) of Section
9 366.21, for determining that a hearing held under Section 366.26
10 is not in the best interest of the child because the child is not a
11 proper subject for adoption and has no one willing to accept legal
12 guardianship, then the court may, only under these circumstances,
13 order that the child remain in long-term foster care. On and after
14 January 1, 2012, the nonminor dependent's legal status as an adult
15 is in and of itself a compelling reason not to hold a hearing pursuant
16 to Section 366.26. The court may order that a nonminor dependent
17 who otherwise is eligible pursuant to Section 11403 remain in a
18 planned, permanent living arrangement. If the court orders that a
19 child who is 10 years of age or older remain in long-term foster
20 care, the court shall determine whether the agency has made
21 reasonable efforts to maintain the child's relationships with
22 individuals other than the child's siblings who are important to the
23 child, consistent with the child's best interests, and may make any
24 appropriate order to ensure that those relationships are maintained.
25 The hearing shall be held no later than 120 days from the date of
26 the subsequent permanency review hearing. The court shall also
27 order termination of reunification services to the parent or legal
28 guardian. The court shall continue to permit the parent or legal
29 guardian to visit the child unless it finds that visitation would be
30 detrimental to the child. The court shall determine whether
31 reasonable services have been offered or provided to the parent or
32 legal guardian. For purposes of this subdivision, evidence of any
33 of the following circumstances shall not, in and of themselves, be
34 deemed a failure to provide or offer reasonable services:

35 (A) The child has been placed with a foster family that is eligible
36 to adopt a child, or has been placed in a preadoptive home.

37 (B) The case plan includes services to make and finalize a
38 permanent placement for the child if efforts to reunify fail.

1 ~~(C) Services to make and finalize a permanent placement for~~
2 ~~the child, if efforts to reunify fail, are provided concurrently with~~
3 ~~services to reunify the family.~~

4 ~~(b) (1) Whenever a court orders that a hearing pursuant to~~
5 ~~Section 366.26 shall be held, it shall direct the agency supervising~~
6 ~~the child and the licensed county adoption agency, or the State~~
7 ~~Department of Social Services when it is acting as an adoption~~
8 ~~agency in counties that are not served by a county adoption agency,~~
9 ~~to prepare an assessment that shall include:~~

10 ~~(A) Current search efforts for an absent parent or parents.~~

11 ~~(B) A review of the amount of, and nature of, any contact~~
12 ~~between the child and his or her parents and other members of his~~
13 ~~or her extended family since the time of placement. Although the~~
14 ~~extended family of each child shall be reviewed on a case-by-case~~
15 ~~basis, “extended family” for the purposes of this paragraph shall~~
16 ~~include, but not be limited to, the child’s siblings, grandparents,~~
17 ~~aunts, and uncles.~~

18 ~~(C) An evaluation of the child’s medical, developmental,~~
19 ~~scholastic, mental, and emotional status.~~

20 ~~(D) A preliminary assessment of the eligibility and commitment~~
21 ~~of any identified prospective adoptive parent or legal guardian,~~
22 ~~particularly the caretaker, to include a social history including~~
23 ~~screening for criminal records and prior referrals for child abuse~~
24 ~~or neglect, the capability to meet the child’s needs, and the~~
25 ~~understanding of the legal and financial rights and responsibilities~~
26 ~~of adoption and guardianship. If a proposed legal guardian is a~~
27 ~~relative of the minor, the assessment shall also consider, but need~~
28 ~~not be limited to, all of the factors specified in subdivision (a) of~~
29 ~~Section 361.3 and in Section 361.4.~~

30 ~~(E) The relationship of the child to any identified prospective~~
31 ~~adoptive parent or legal guardian, the duration and character of~~
32 ~~the relationship, the degree of attachment of the child to the~~
33 ~~prospective relative guardian or adoptive parent, the relative’s or~~
34 ~~adoptive parent’s strong commitment to caring permanently for~~
35 ~~the child, the motivation for seeking adoption or legal guardianship,~~
36 ~~a statement from the child concerning placement and the adoption~~
37 ~~or legal guardianship, and whether the child, if over 12 years of~~
38 ~~age, has been consulted about the proposed relative guardianship~~
39 ~~arrangements, unless the child’s age or physical, emotional, or~~

1 other condition precludes his or her meaningful response, and if
2 so, a description of the condition.

3 ~~(F) An analysis of the likelihood that the child will be adopted~~
4 ~~if parental rights are terminated.~~

5 ~~(2) (A) A relative caregiver's preference for legal guardianship~~
6 ~~over adoption, if it is due to circumstances that do not include an~~
7 ~~unwillingness to accept legal or financial responsibility for the~~
8 ~~child, shall not constitute the sole basis for recommending removal~~
9 ~~of the child from the relative caregiver for purposes of adoptive~~
10 ~~placement.~~

11 ~~(B) A relative caregiver shall be given information regarding~~
12 ~~the permanency options of guardianship and adoption, including~~
13 ~~the long-term benefits and consequences of each option, prior to~~
14 ~~establishing legal guardianship or pursuing adoption. If the~~
15 ~~proposed permanent plan is guardianship with an approved relative~~
16 ~~caregiver for a minor eligible for aid under the Kin-GAP Program,~~
17 ~~as provided for in Article 4.7 (commencing with Section 11385)~~
18 ~~of Chapter 2 of Part 3 of Division 9, the relative caregiver shall~~
19 ~~be informed about the terms and conditions of the negotiated~~
20 ~~agreement pursuant to Section 11387 and shall agree to its~~
21 ~~execution prior to the hearing held pursuant to Section 366.26. A~~
22 ~~copy of the executed negotiated agreement shall be attached to the~~
23 ~~assessment.~~

24 ~~(c) If, at any hearing held pursuant to Section 366.26, a~~
25 ~~guardianship is established for the minor with an approved relative~~
26 ~~caregiver, and juvenile court dependency is subsequently~~
27 ~~dismissed, the minor shall be eligible for aid under the Kin-GAP~~
28 ~~Program, as provided for in Article 4.5 (commencing with Section~~
29 ~~11360) or Article 4.7 (commencing with Section 11385), as~~
30 ~~applicable, of Chapter 2 of Part 3 of Division 9.~~

31 ~~(d) As used in this section, "relative" means an adult who is~~
32 ~~related to the minor by blood, adoption, or affinity within the fifth~~
33 ~~degree of kinship, including stepparents, stepsiblings, and all~~
34 ~~relatives whose status is preceded by the words "great,"~~
35 ~~"great-great," or "grand," or the spouse of any of those persons~~
36 ~~even if the marriage was terminated by death or dissolution. If the~~
37 ~~proposed permanent plan is guardianship with an approved relative~~
38 ~~caregiver for a minor eligible for aid under the Kin-GAP Program,~~
39 ~~as provided for in Article 4.7 (commencing with Section 11385)~~
40 ~~of Chapter 2 of Part 3 of Division 9, "relative" as used in this~~

1 ~~section has the same meaning as “relative” as defined in~~
2 ~~subdivision (c) of Section 11391.~~

3 ~~(e) The implementation and operation of subdivision (a) enacted~~
4 ~~at the 2005–06 Regular Session shall be subject to appropriation~~
5 ~~through the budget process and by phase, as provided in Section~~
6 ~~366.35.~~

7 ~~(f) This section shall become operative on January 1, 2014.~~

8 *SEC. 23. Section 366.25 of the Welfare and Institutions Code*
9 *is amended to read:*

10 366.25. (a) (1) When a case has been continued pursuant to
11 subdivision (b) of Section 366.22, the subsequent permanency
12 review hearing shall occur within 24 months after the date the
13 child was originally removed from the physical custody of his or
14 her parent or legal guardian. The court shall order the return of the
15 child to the physical custody of his or her parent or legal guardian
16 unless the court finds, by a preponderance of the evidence, that
17 the return of the child to his or her parent or legal guardian would
18 create a substantial risk of detriment to the safety, protection, or
19 physical or emotional well-being of the child. The social worker
20 shall have the burden of establishing that detriment. At the
21 subsequent permanency review hearing, the court shall consider
22 the criminal history, obtained pursuant to paragraph (1) of
23 subdivision (f) of Section 16504.5, of the parent or legal guardian
24 subsequent to the child’s removal to the extent that the criminal
25 record is substantially related to the welfare of the child or parent
26 or legal guardian’s ability to exercise custody and control regarding
27 his or her child provided that the parent or legal guardian agreed
28 to submit fingerprint images to obtain criminal history information
29 as part of the case plan. The failure of the parent or legal guardian
30 to participate regularly and make substantive progress in
31 court-ordered treatment programs shall be prima facie evidence
32 that return would be detrimental. In making its determination, the
33 court shall review and consider the social worker’s report and
34 recommendations and the report and recommendations of any child
35 advocate appointed pursuant to Section 356.5; shall consider the
36 efforts or progress, or both, demonstrated by the parent or legal
37 guardian and the extent to which he or she availed himself or
38 herself of services provided; and shall make appropriate findings
39 pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parents or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, or, in the case of an Indian child, tribal customary adoption, guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, *unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan*. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, that there is a compelling reason, as described in paragraph (3) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption or, in the case of an Indian child, tribal customary adoption, and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in long-term foster care. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the

1 child's best interests, and may make any appropriate order to ensure
2 that those relationships are maintained. The hearing shall be held
3 no later than 120 days from the date of the subsequent permanency
4 review hearing. The court shall also order termination of
5 reunification services to the parent or legal guardian. The court
6 shall continue to permit the parent or legal guardian to visit the
7 child unless it finds that visitation would be detrimental to the
8 child. The court shall determine whether reasonable services have
9 been offered or provided to the parent or legal guardian. For
10 purposes of this subdivision, evidence of any of the following
11 circumstances shall not, in and of themselves, be deemed a failure
12 to provide or offer reasonable services:

13 (A) The child has been placed with a foster family that is eligible
14 to adopt a child, or has been placed in a preadoptive home.

15 (B) The case plan includes services to make and finalize a
16 permanent placement for the child if efforts to reunify fail.

17 (C) Services to make and finalize a permanent placement for
18 the child, if efforts to reunify fail, are provided concurrently with
19 services to reunify the family.

20 (b) (1) Whenever a court orders that a hearing pursuant to
21 Section 366.26 shall be held, it shall direct the agency supervising
22 the child and the county adoption agency, or the State Department
23 of Social Services when it is acting as an adoption agency, to
24 prepare an assessment that shall include:

25 (A) Current search efforts for an absent parent or parents.

26 (B) A review of the amount of, and nature of, any contact
27 between the child and his or her parents and other members of his
28 or her extended family since the time of placement. Although the
29 extended family of each child shall be reviewed on a case-by-case
30 basis, "extended family" for the purposes of this paragraph shall
31 include, but not be limited to, the child's siblings, grandparents,
32 aunts, and uncles.

33 (C) An evaluation of the child's medical, developmental,
34 scholastic, mental, and emotional status.

35 (D) A preliminary assessment of the eligibility and commitment
36 of any identified prospective adoptive parent or legal guardian,
37 including a prospective tribal customary adoptive parent,
38 particularly the caretaker, to include a social history including
39 screening for criminal records and prior referrals for child abuse
40 or neglect, the capability to meet the child's needs, and the

1 understanding of the legal and financial rights and responsibilities
2 of adoption and guardianship. If a proposed legal guardian is a
3 relative of the minor, the assessment shall also consider, but need
4 not be limited to, all of the factors specified in subdivision (a) of
5 Section 361.3 and in Section 361.4.

6 (E) The relationship of the child to any identified prospective
7 adoptive parent or legal guardian, including a prospective tribal
8 customary adoptive parent, the duration and character of the
9 relationship, the degree of attachment of the child to the prospective
10 relative guardian or adoptive parent, the relative's or adoptive
11 parent's strong commitment to caring permanently for the child,
12 the motivation for seeking adoption or legal guardianship, a
13 statement from the child concerning placement and the adoption
14 or legal guardianship, and whether the child, if over 12 years of
15 age, has been consulted about the proposed relative guardianship
16 arrangements, unless the child's age or physical, emotional, or
17 other condition precludes his or her meaningful response, and if
18 so, a description of the condition.

19 (F) An analysis of the likelihood that the child will be adopted
20 if parental rights are terminated.

21 (G) In the case of an Indian child, in addition to subparagraphs
22 (A) to (F), inclusive, an assessment of the likelihood that the child
23 will be adopted, when, in consultation with the child's tribe, a
24 tribal customary adoption, as defined in Section 366.24, is
25 recommended. If tribal customary adoption is recommended, the
26 assessment shall include an analysis of both of the following:

27 (i) Whether tribal customary adoption would or would not be
28 detrimental to the Indian child and the reasons for reaching that
29 conclusion.

30 (ii) Whether the Indian child cannot or should not be returned
31 to the home of the Indian parent or Indian custodian and the reasons
32 for reaching that conclusion.

33 (2) (A) A relative caregiver's preference for legal guardianship
34 over adoption, if it is due to circumstances that do not include an
35 unwillingness to accept legal or financial responsibility for the
36 child, shall not constitute the sole basis for recommending removal
37 of the child from the relative caregiver for purposes of adoptive
38 placement.

39 (B) A relative caregiver shall be given information regarding
40 the permanency options of guardianship and adoption, including

1 the long-term benefits and consequences of each option, prior to
2 establishing legal guardianship or pursuing adoption. *If the*
3 *proposed permanent plan is guardianship with an approved*
4 *relative caregiver for a minor eligible for aid under the Kin-GAP*
5 *Program, as provided for in Article 4.7 (commencing with Section*
6 *11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver*
7 *shall be informed about the terms and conditions of the negotiated*
8 *agreement pursuant to Section 11387 and shall agree to its*
9 *execution prior to the hearing held pursuant to Section 366.26. A*
10 *copy of the executed negotiated agreement shall be attached to*
11 *the assessment.*

12 (c) If, at any hearing held pursuant to Section 366.26, a
13 guardianship is established for the minor with an approved relative
14 caregiver, and juvenile court dependency is subsequently
15 dismissed, the minor shall be eligible for aid under the Kin-GAP
16 Program, as provided for in Article 4.5 (commencing with Section
17 11360) or Article 4.7 (commencing with Section 11385), as
18 applicable, of Chapter 2 of Part 3 of Division 9.

19 (d) As used in this section, “relative” means an adult who is
20 related to the minor by blood, adoption, or affinity within the fifth
21 degree of kinship, including stepparents, stepsiblings, and all
22 relatives whose status is preceded by the words “great,”
23 “great-great,” or “grand,” or the spouse of any of those persons
24 even if the marriage was terminated by death or dissolution. *If the*
25 *proposed permanent plan is guardianship with an approved*
26 *relative caregiver for a minor eligible for aid under the Kin-GAP*
27 *Program, as provided in Article 4.7 (commencing with Section*
28 *11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in*
29 *this section has the same meaning as “relative” as defined in*
30 *subdivision (c) of Section 11391.*

31 (e) The implementation and operation of subdivision (a) enacted
32 at the 2005–06 Regular Session shall be subject to appropriation
33 through the budget process and by phase, as provided in Section
34 366.35.

35 ~~SEC. 26. Section 366.26 of the Welfare and Institutions Code,~~
36 ~~as amended by Section 15 of Chapter 287 of the Statutes of 2009,~~
37 ~~is amended to read:~~

38 ~~366.26. (a) This section applies to children who are adjudged~~
39 ~~dependent children of the juvenile court pursuant to subdivision~~
40 ~~(d) of Section 360. The procedures specified herein are the~~

~~exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. Section 8616.5 of the Family Code is applicable and available to all dependent children meeting the requirements of that section, if the postadoption contact agreement has been entered into voluntarily. For children who are adjudged dependent children of the juvenile court pursuant to subdivision (d) of Section 360, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the child while the child is a dependent child of the juvenile court.~~

~~(b) At the hearing, which shall be held in juvenile court for all children who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these children, shall review the report as specified in Section 361.5, 366.21, 366.22, or 366.25, shall indicate that the court has read and considered it, shall receive other evidence that the parties may present, and then shall make findings and orders in the following order of preference:~~

~~(1) Terminate the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.~~

~~(2) Order, without termination of parental rights, the plan of tribal customary adoption, as described in Section 366.24, through tribal custom, traditions, or law of the Indian child's tribe, and upon the court affording the tribal customary adoption order full faith and credit at the continued selection and implementation hearing, order that a hearing be set pursuant to paragraph (2) of subdivision (e).~~

~~(3) Appoint a relative or relatives with whom the child is currently residing as legal guardian or guardians for the child, and order that letters of guardianship issue.~~

~~(4) On making a finding under paragraph (3) of subdivision (e), identify adoption or tribal customary adoption as the permanent placement goal and order that efforts be made to locate an~~

1 appropriate adoptive family for the child within a period not to
2 exceed 180 days.

3 (5) Appoint a nonrelative legal guardian for the child and order
4 that letters of guardianship issue.

5 (6) Order that the child be placed in long-term foster care,
6 subject to the periodic review of the juvenile court under Section
7 366.3.

8 In choosing among the above alternatives the court shall proceed
9 pursuant to subdivision (c).

10 (c) (1) If the court determines, based on the assessment provided
11 as ordered under subdivision (i) of Section 366.21, subdivision (b)
12 of Section 366.22, or subdivision (b) of Section 366.25, and any
13 other relevant evidence, by a clear and convincing standard, that
14 it is likely the child will be adopted, the court shall terminate
15 parental rights and order the child placed for adoption. The fact
16 that the child is not yet placed in a preadoptive home nor with a
17 relative or foster family who is prepared to adopt the child, shall
18 not constitute a basis for the court to conclude that it is not likely
19 the child will be adopted. A finding under subdivision (b) or
20 paragraph (1) of subdivision (c) of Section 361.5 that reunification
21 services shall not be offered, under subdivision (c) of Section
22 366.21 that the whereabouts of a parent have been unknown for
23 six months or that the parent has failed to visit or contact the child
24 for six months, or that the parent has been convicted of a felony
25 indicating parental unfitness, or, under Section 366.21 or 366.22,
26 that the court has continued to remove the child from the custody
27 of the parent or guardian and has terminated reunification services,
28 shall constitute a sufficient basis for termination of parental rights.
29 Under these circumstances, the court shall terminate parental rights
30 unless either of the following applies:

31 (A) The child is living with a relative who is unable or unwilling
32 to adopt the child because of circumstances that do not include an
33 unwillingness to accept legal or financial responsibility for the
34 child, but who is willing and capable of providing the child with
35 a stable and permanent environment through legal guardianship,
36 and the removal of the child from the custody of his or her relative
37 would be detrimental to the emotional well-being of the child. For
38 purposes of an Indian child, "relative" shall include an "extended
39 family member," as defined in the federal Indian Child Welfare
40 Act (25 U.S.C. Sec. 1903(2)).

1 ~~(B) The court finds a compelling reason for determining that~~
2 ~~termination would be detrimental to the child due to one or more~~
3 ~~of the following circumstances:~~

4 ~~(i) The parents have maintained regular visitation and contact~~
5 ~~with the child and the child would benefit from continuing the~~
6 ~~relationship.~~

7 ~~(ii) A child 12 years of age or older objects to termination of~~
8 ~~parental rights.~~

9 ~~(iii) The child is placed in a residential treatment facility;~~
10 ~~adoption is unlikely or undesirable, and continuation of parental~~
11 ~~rights will not prevent finding the child a permanent family~~
12 ~~placement if the parents cannot resume custody when residential~~
13 ~~care is no longer needed.~~

14 ~~(iv) The child is living with a foster parent or Indian custodian~~
15 ~~who is unable or unwilling to adopt the child because of~~
16 ~~exceptional circumstances, that do not include an unwillingness~~
17 ~~to accept legal or financial responsibility for the child, but who is~~
18 ~~willing and capable of providing the child with a stable and~~
19 ~~permanent environment and the removal of the child from the~~
20 ~~physical custody of his or her foster parent or Indian custodian~~
21 ~~would be detrimental to the emotional well-being of the child. This~~
22 ~~clause does not apply to any child who is either (I) under six years~~
23 ~~of age or (II) a member of a sibling group where at least one child~~
24 ~~is under six years of age and the siblings are, or should be,~~
25 ~~permanently placed together.~~

26 ~~(v) There would be substantial interference with a child's sibling~~
27 ~~relationship, taking into consideration the nature and extent of the~~
28 ~~relationship, including, but not limited to, whether the child was~~
29 ~~raised with a sibling in the same home, whether the child shared~~
30 ~~significant common experiences or has existing close and strong~~
31 ~~bonds with a sibling, and whether ongoing contact is in the child's~~
32 ~~best interest, including the child's long-term emotional interest,~~
33 ~~as compared to the benefit of legal permanence through adoption.~~

34 ~~(vi) The child is an Indian child and there is a compelling reason~~
35 ~~for determining that termination of parental rights would not be~~
36 ~~in the best interest of the child, including, but not limited to:~~

37 ~~(I) Termination of parental rights would substantially interfere~~
38 ~~with the child's connection to his or her tribal community or the~~
39 ~~child's tribal membership rights.~~

1 ~~(H) The child's tribe has identified guardianship, long-term~~
2 ~~foster care with a fit and willing relative, tribal customary adoption,~~
3 ~~or another planned permanent living arrangement for the child.~~

4 ~~(II) The child is a nonminor dependent, and the nonminor and~~
5 ~~the nonminor's tribe have identified tribal customary adoption for~~
6 ~~the nonminor.~~

7 ~~(C) For purposes of subparagraph (B), in the case of tribal~~
8 ~~customary adoptions, Section 366.24 shall apply.~~

9 ~~(D) If the court finds that termination of parental rights would~~
10 ~~be detrimental to the child pursuant to clause (i), (ii), (iii), (iv),~~
11 ~~(v), or (vi), it shall state its reasons in writing or on the record.~~

12 ~~(2) The court shall not terminate parental rights if:~~

13 ~~(A) At each hearing at which the court was required to consider~~
14 ~~reasonable efforts or services, the court has found that reasonable~~
15 ~~efforts were not made or that reasonable services were not offered~~
16 ~~or provided.~~

17 ~~(B) In the case of an Indian child:~~

18 ~~(i) At the hearing terminating parental rights, the court has found~~
19 ~~that active efforts were not made as required in Section 361.7.~~

20 ~~(ii) The court does not make a determination at the hearing~~
21 ~~terminating parental rights, supported by evidence beyond a~~
22 ~~reasonable doubt, including testimony of one or more "qualified~~
23 ~~expert witnesses" as defined in Section 224.6, that the continued~~
24 ~~custody of the child by the parent is likely to result in serious~~
25 ~~emotional or physical damage to the child.~~

26 ~~(iii) The court has ordered tribal customary adoption pursuant~~
27 ~~to Section 366.24.~~

28 ~~(3) If the court finds that termination of parental rights would~~
29 ~~not be detrimental to the child pursuant to paragraph (1) and that~~
30 ~~the child has a probability for adoption but is difficult to place for~~
31 ~~adoption and there is no identified or available prospective adoptive~~
32 ~~parent, the court may identify adoption as the permanent placement~~
33 ~~goal and, without terminating parental rights, order that efforts be~~
34 ~~made to locate an appropriate adoptive family for the child, within~~
35 ~~the state or out of the state, within a period not to exceed 180 days.~~
36 ~~During this 180-day period, the public agency responsible for~~
37 ~~seeking adoptive parents for each child shall, to the extent possible,~~
38 ~~ask each child who is 10 years of age or older, to identify any~~
39 ~~individuals, other than the child's siblings, who are important to~~
40 ~~the child, in order to identify potential adoptive parents. The public~~

1 agency may ask any other child to provide that information, as
2 appropriate. During the 180-day period, the public agency shall,
3 to the extent possible, contact other private and public adoption
4 agencies regarding the availability of the child for adoption. During
5 the 180-day period, the public agency shall conduct the search for
6 adoptive parents in the same manner as prescribed for children in
7 Sections 8708 and 8709 of the Family Code. At the expiration of
8 this period, another hearing shall be held and the court shall
9 proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision
10 (b). For purposes of this section, a child may only be found to be
11 difficult to place for adoption if there is no identified or available
12 prospective adoptive parent for the child because of the child's
13 membership in a sibling group, or the presence of a diagnosed
14 medical, physical, or mental handicap, or the child is seven years
15 of age or more.

16 (4) (A) If the court finds that adoption of the child or
17 termination of parental rights is not in the best interest of the child,
18 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or
19 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)
20 applies, the court shall either order that the present caretakers or
21 other appropriate persons shall become legal guardians of the child
22 order that the child remain in long-term foster care, or, in the case
23 of an Indian child, consider a tribal customary adoption pursuant
24 to Section 366.24. Legal guardianship shall be considered before
25 long-term foster care, if it is in the best interests of the child and
26 if a suitable guardian can be found. A child who is 10 years of age
27 or older shall be asked to identify any individuals, other than the
28 child's siblings, who are important to the child, in order to identify
29 potential guardians or, in the case of an Indian child, prospective
30 tribal customary adoptive parents. The agency may ask any other
31 child to provide that information, as appropriate.

32 (B) If the child is living with a relative or a foster parent who
33 is willing and capable of providing a stable and permanent
34 environment, but not willing to become a legal guardian, the child
35 shall not be removed from the home if the court finds the removal
36 would be seriously detrimental to the emotional well-being of the
37 child because the child has substantial psychological ties to the
38 relative caretaker or foster parents.

39 (C) The court shall also make an order for visitation with the
40 parents or guardians unless the court finds by a preponderance of

1 the evidence that the visitation would be detrimental to the physical
2 or emotional well-being of the child.

3 ~~(5) If the court finds that the child should not be placed for~~
4 ~~adoption, that legal guardianship shall not be established, and that~~
5 ~~there are no suitable foster parents except exclusive-use homes~~
6 ~~available to provide the child with a stable and permanent~~
7 ~~environment, the court may order the care, custody, and control~~
8 ~~of the child transferred from the county welfare department to a~~
9 ~~licensed foster family agency. The court shall consider the written~~
10 ~~recommendation of the county welfare director regarding the~~
11 ~~suitability of the transfer. The transfer shall be subject to further~~
12 ~~court orders.~~

13 ~~The licensed foster family agency shall place the child in a~~
14 ~~suitable licensed or exclusive-use home that has been certified by~~
15 ~~the agency as meeting licensing standards. The licensed foster~~
16 ~~family agency shall be responsible for supporting the child and~~
17 ~~providing appropriate services to the child, including those services~~
18 ~~ordered by the court. Responsibility for the support of the child~~
19 ~~shall not, in and of itself, create liability on the part of the foster~~
20 ~~family agency to third persons injured by the child. Those children~~
21 ~~whose care, custody, and control are transferred to a foster family~~
22 ~~agency shall not be eligible for foster care maintenance payments~~
23 ~~or child welfare services, except for emergency response services~~
24 ~~pursuant to Section 16504.~~

25 ~~(d) The proceeding for the appointment of a guardian for a child~~
26 ~~who is a dependent of the juvenile court shall be in the juvenile~~
27 ~~court. If the court finds pursuant to this section that legal~~
28 ~~guardianship is the appropriate permanent plan, it shall appoint~~
29 ~~the legal guardian and issue letters of guardianship. The assessment~~
30 ~~prepared pursuant to subdivision (g) of Section 361.5, subdivision~~
31 ~~(i) of Section 366.21, subdivision (b) of Section 366.22, and~~
32 ~~subdivision (b) of Section 366.25 shall be read and considered by~~
33 ~~the court prior to the appointment, and this shall be reflected in~~
34 ~~the minutes of the court. The person preparing the assessment may~~
35 ~~be called and examined by any party to the proceeding.~~

36 ~~(e) (1) The proceeding for the adoption of a child who is a~~
37 ~~dependent of the juvenile court shall be in the juvenile court if the~~
38 ~~court finds pursuant to this section that adoption is the appropriate~~
39 ~~permanent plan and the petition for adoption is filed in the juvenile~~
40 ~~court. Upon the filing of a petition for adoption, the juvenile court~~

1 shall order that an adoption hearing be set. The court shall proceed
2 with the adoption after the appellate rights of the natural parents
3 have been exhausted. The full report required by Section 8715 of
4 the Family Code shall be read and considered by the court prior
5 to the adoption and this shall be reflected in the minutes of the
6 court. The person preparing the report may be called and examined
7 by any party to the proceeding. It is the intent of the Legislature,
8 pursuant to this subdivision, to give potential adoptive parents the
9 option of filing in the juvenile court the petition for the adoption
10 of a child who is a dependent of the juvenile court. Nothing in this
11 section is intended to prevent the filing of a petition for adoption
12 in any other court as permitted by law, instead of in the juvenile
13 court.

14 (2) In the case of an Indian child, if the Indian child's tribe has
15 elected a permanent plan of tribal customary adoption, the court,
16 upon receiving the tribal customary adoption order will afford the
17 tribal customary adoption order full faith and credit to the same
18 extent that the court would afford full faith and credit to the public
19 acts, records, judicial proceedings, and judgments of any other
20 entity. Upon a determination that the tribal customary adoption
21 order may be afforded full faith and credit, consistent with Section
22 224.5, the court shall thereafter order a hearing to finalize the
23 adoption be set upon the filing of the adoption petition. The
24 prospective tribal customary adoptive parents and the child who
25 is the subject of the tribal customary adoption petition shall appear
26 before the court for the finalization hearing. The court shall
27 thereafter issue an order of adoption pursuant to Section 366.24.

28 (3) If a child who is the subject of a finalized tribal customary
29 adoption shows evidence of a developmental disability or mental
30 illness as a result of conditions existing before the tribal customary
31 adoption to the extent that the child cannot be relinquished to a
32 licensed adoption agency on the grounds that the child is considered
33 unadoptable, and of which condition the tribal customary adoptive
34 parent or parents had no knowledge or notice before the entry of
35 the tribal customary adoption order, a petition setting forth those
36 facts may be filed by the tribal customary adoptive parent or
37 parents with the juvenile court that granted the tribal customary
38 adoption petition. If these facts are proved to the satisfaction of
39 the juvenile court, it may make an order setting aside the tribal
40 customary adoption order. The set aside petition shall be filed

1 within five years of the issuance of the tribal customary adoption
2 order. The court clerk shall immediately notify the child's tribe
3 and the department in Sacramento of the petition within 60 days
4 after the notice of filing of the petition. The department shall file
5 a full report with the court and shall appear before the court for
6 the purpose of representing the child. Whenever a final decree of
7 tribal customary adoption has been vacated or set aside, the child
8 shall be returned to the custody of the county in which the
9 proceeding for tribal customary adoption was finalized. The
10 biological parent or parents of the child may petition for return of
11 custody. The disposition of the child after the court has entered an
12 order to set aside a tribal customary adoption shall include
13 consultation with the child's tribe.

14 (f) At the beginning of any proceeding pursuant to this section,
15 if the child or the parents are not being represented by previously
16 retained or appointed counsel, the court shall proceed as follows:

17 (1) In accordance with subdivision (c) of Section 317, if a child
18 before the court is without counsel, the court shall appoint counsel
19 unless the court finds that the child would not benefit from the
20 appointment of counsel. The court shall state on the record its
21 reasons for that finding.

22 (2) If a parent appears without counsel and is unable to afford
23 counsel, the court shall appoint counsel for the parent, unless this
24 representation is knowingly and intelligently waived. The same
25 counsel shall not be appointed to represent both the child and his
26 or her parent. The public defender or private counsel may be
27 appointed as counsel for the parent.

28 (3) Private counsel appointed under this section shall receive a
29 reasonable sum for compensation and expenses, the amount of
30 which shall be determined by the court. The amount shall be paid
31 by the real parties in interest, other than the child, in any
32 proportions the court deems just. However, if the court finds that
33 any of the real parties in interest are unable to afford counsel, the
34 amount shall be paid out of the general fund of the county.

35 (g) The court may continue the proceeding for a period of time
36 not to exceed 30 days as necessary to appoint counsel, and to
37 enable counsel to become acquainted with the case.

38 (h) (1) At all proceedings under this section, the court shall
39 consider the wishes of the child and shall act in the best interests
40 of the child.

~~(2) In accordance with Section 349, the child shall be present in court if the child or the child's counsel so requests or the court so orders. If the child is 10 years of age or older and is not present at a hearing held pursuant to this section, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire as to the reason why the child is not present.~~

~~(3) (A) The testimony of the child may be taken in chambers and outside the presence of the child's parent or parents, if the child's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exists:~~

~~(i) The court determines that testimony in chambers is necessary to ensure truthful testimony.~~

~~(ii) The child is likely to be intimidated by a formal courtroom setting.~~

~~(iii) The child is afraid to testify in front of his or her parent or parents.~~

~~(B) After testimony in chambers, the parent or parents of the child may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.~~

~~(C) The testimony of a child also may be taken in chambers and outside the presence of the guardian or guardians of a child under the circumstances specified in this subdivision.~~

~~(i) (1) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the child, upon the parent or parents, and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making the order, the juvenile court shall have no power to set aside, change, or modify it, except as provided in paragraph (2), but nothing in this section shall be construed to limit the right to appeal the order.~~

~~(2) A tribal customary adoption order evidencing that the Indian child has been the subject of a tribal customary adoption shall be afforded full faith and credit and shall have the same force and effect as an order of adoption authorized by this section. The rights and obligations of the parties as to the matters determined by the Indian child's tribe shall be binding on all parties. A court shall not order compliance with the order absent a finding that the party seeking the enforcement participated, or attempted to participate, in good faith, in family mediation services of the court or dispute~~

1 resolution through the tribe regarding the conflict, prior to the
2 filing of the enforcement action.

3 (3) ~~A child who has not been adopted after the passage of at~~
4 ~~least three years from the date the court terminated parental rights~~
5 ~~and for whom the court has determined that adoption is no longer~~
6 ~~the permanent plan may petition the juvenile court to reinstate~~
7 ~~parental rights pursuant to the procedure prescribed by Section~~
8 ~~388. The child may file the petition prior to the expiration of this~~
9 ~~three-year period if the State Department of Social Services or~~
10 ~~licensed adoption agency that is responsible for custody and~~
11 ~~supervision of the child as described in subdivision (j) and the~~
12 ~~child stipulate that the child is no longer likely to be adopted. A~~
13 ~~child over 12 years of age shall sign the petition in the absence of~~
14 ~~a showing of good cause as to why the child could not do so. If it~~
15 ~~appears that the best interests of the child may be promoted by~~
16 ~~reinstatement of parental rights, the court shall order that a hearing~~
17 ~~be held and shall give prior notice, or cause prior notice to be~~
18 ~~given, to the social worker or probation officer and to the child's~~
19 ~~attorney of record, or, if there is no attorney of record for the child,~~
20 ~~to the child, and the child's tribe, if applicable, by means prescribed~~
21 ~~by subdivision (c) of Section 297. The court shall order the child~~
22 ~~or the social worker or probation officer to give prior notice of the~~
23 ~~hearing to the child's former parent or parents whose parental~~
24 ~~rights were terminated in the manner prescribed by subdivision~~
25 ~~(f) of Section 294 where the recommendation is adoption. The~~
26 ~~juvenile court shall grant the petition if it finds by clear and~~
27 ~~convincing evidence that the child is no longer likely to be adopted~~
28 ~~and that reinstatement of parental rights is in the child's best~~
29 ~~interest. If the court reinstates parental rights over a child who is~~
30 ~~under 12 years of age and for whom the new permanent plan will~~
31 ~~not be reunification with a parent or legal guardian, the court shall~~
32 ~~specify the factual basis for its findings that it is in the best interest~~
33 ~~of the child to reinstate parental rights. This subdivision is intended~~
34 ~~to be retroactive and applies to any child who is under the~~
35 ~~jurisdiction of the juvenile court at the time of the hearing~~
36 ~~regardless of the date parental rights were terminated.~~

37 (j) ~~If the court, by order or judgment, declares the child free~~
38 ~~from the custody and control of both parents, or one parent if the~~
39 ~~other does not have custody and control, or declares the child~~
40 ~~eligible for tribal customary adoption, the court shall at the same~~

~~time order the child referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, except in the case of a tribal customary adoption where there is no termination of parental rights, a petition for adoption may not be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services or licensed adoption agency shall be responsible for the custody and supervision of the child and shall be entitled to the exclusive care and control of the child at all times until a petition for adoption or tribal customary adoption is granted, except as specified in subdivision (n). With the consent of the agency, the court may appoint a guardian of the child, who shall serve until the child is adopted.~~

~~(k) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's emotional well-being.~~

~~As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.~~

~~(l) (1) An order by the court that a hearing pursuant to this section be held is not appealable at any time unless all of the following apply:~~

~~(A) A petition for extraordinary writ review was filed in a timely manner;~~

~~(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record;~~

~~(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.~~

~~(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate~~

1 record shall preclude subsequent review by appeal of the findings
2 and orders made pursuant to this section.

3 (3) ~~The Judicial Council shall adopt rules of court, effective~~
4 ~~January 1, 1995, to ensure all of the following:~~

5 (A) ~~A trial court, after issuance of an order directing a hearing~~
6 ~~pursuant to this section be held, shall advise all parties of the~~
7 ~~requirement of filing a petition for extraordinary writ review as~~
8 ~~set forth in this subdivision in order to preserve any right to appeal~~
9 ~~in these issues. This notice shall be made orally to a party if the~~
10 ~~party is present at the time of the making of the order or by~~
11 ~~first-class mail by the clerk of the court to the last known address~~
12 ~~of a party not present at the time of the making of the order.~~

13 (B) ~~The prompt transmittal of the records from the trial court~~
14 ~~to the appellate court.~~

15 (C) ~~That adequate time requirements for counsel and court~~
16 ~~personnel exist to implement the objective of this subdivision.~~

17 (D) ~~That the parent or guardian, or their trial counsel or other~~
18 ~~counsel, is charged with the responsibility of filing a petition for~~
19 ~~extraordinary writ relief pursuant to this subdivision.~~

20 (4) ~~The intent of this subdivision is to do both of the following:~~

21 (A) ~~Make every reasonable attempt to achieve a substantive and~~
22 ~~meritorious review by the appellate court within the time specified~~
23 ~~in Sections 366.21, 366.22, and 366.25 for holding a hearing~~
24 ~~pursuant to this section.~~

25 (B) ~~Encourage the appellate court to determine all writ petitions~~
26 ~~filed pursuant to this subdivision on their merits.~~

27 (5) ~~This subdivision shall only apply to cases in which an order~~
28 ~~to set a hearing pursuant to this section is issued on or after January~~
29 ~~1, 1995.~~

30 (m) ~~Except for subdivision (j), this section shall also apply to~~
31 ~~minors adjudged wards pursuant to Section 727.31.~~

32 (n) (1) ~~Notwithstanding Section 8704 of the Family Code or~~
33 ~~any other provision of law, the court, at a hearing held pursuant~~
34 ~~to this section or anytime thereafter, may designate a current~~
35 ~~caretaker as a prospective adoptive parent if the child has lived~~
36 ~~with the caretaker for at least six months, the caretaker currently~~
37 ~~expresses a commitment to adopt the child, and the caretaker has~~
38 ~~taken at least one step to facilitate the adoption process. In~~
39 ~~determining whether to make that designation, the court may take~~
40 ~~into consideration whether the caretaker is listed in the preliminary~~

1 assessment prepared by the county department in accordance with
2 subdivision (i) of Section 366.21 as an appropriate person to be
3 considered as an adoptive parent for the child and the
4 recommendation of the State Department of Social Services or
5 licensed adoption agency.

6 (2) For purposes of this subdivision, steps to facilitate the
7 adoption process include, but are not limited to, the following:

8 (A) Applying for an adoption home study.

9 (B) Cooperating with an adoption home study.

10 (C) Being designated by the court or the licensed adoption
11 agency as the adoptive family.

12 (D) Requesting de facto parent status.

13 (E) Signing an adoptive placement agreement.

14 (F) Engaging in discussions regarding a postadoption contact
15 agreement.

16 (G) Working to overcome any impediments that have been
17 identified by the State Department of Social Services and the
18 licensed adoption agency.

19 (H) Attending classes required of prospective adoptive parents.

20 (3) Prior to a change in placement and as soon as possible after
21 a decision is made to remove a child from the home of a designated
22 prospective adoptive parent, the agency shall notify the court, the
23 designated prospective adoptive parent or the current caretaker, if
24 that caretaker would have met the threshold criteria to be
25 designated as a prospective adoptive parent pursuant to paragraph
26 (1) on the date of service of this notice, the child's attorney, and
27 the child, if the child is 10 years of age or older, of the proposal
28 in the manner described in Section 16010.6.

29 (A) Within five court days or seven calendar days, whichever
30 is longer, of the date of notification, the child, the child's attorney,
31 or the designated prospective adoptive parent may file a petition
32 with the court objecting to the proposal to remove the child, or the
33 court, upon its own motion, may set a hearing regarding the
34 proposal. The court may, for good cause, extend the filing period.
35 A caretaker who would have met the threshold criteria to be
36 designated as a prospective adoptive parent pursuant to paragraph
37 (1) on the date of service of the notice of proposed removal of the
38 child may file, together with the petition under this subparagraph,
39 a petition for an order designating the caretaker as a prospective
40 adoptive parent for purposes of this subdivision.

1 ~~(B) A hearing ordered pursuant to this paragraph shall be held~~
2 ~~as soon as possible and not later than five court days after the~~
3 ~~petition is filed with the court or the court sets a hearing upon its~~
4 ~~own motion, unless the court for good cause is unable to set the~~
5 ~~matter for hearing five court days after the petition is filed, in~~
6 ~~which case the court shall set the matter for hearing as soon as~~
7 ~~possible. At the hearing, the court shall determine whether the~~
8 ~~caretaker has met the threshold criteria to be designated as a~~
9 ~~prospective adoptive parent pursuant to paragraph (1), and whether~~
10 ~~the proposed removal of the child from the home of the designated~~
11 ~~prospective adoptive parent is in the child's best interest, and the~~
12 ~~child may not be removed from the home of the designated~~
13 ~~prospective adoptive parent unless the court finds that removal is~~
14 ~~in the child's best interest. If the court determines that the caretaker~~
15 ~~did not meet the threshold criteria to be designated as a prospective~~
16 ~~adoptive parent on the date of service of the notice of proposed~~
17 ~~removal of the child, the petition objecting to the proposed removal~~
18 ~~filed by the caretaker shall be dismissed. If the caretaker was~~
19 ~~designated as a prospective adoptive parent prior to this hearing,~~
20 ~~the court shall inquire into any progress made by the caretaker~~
21 ~~toward the adoption of the child since the caretaker was designated~~
22 ~~as a prospective adoptive parent.~~

23 ~~(C) A determination by the court that the caretaker is a~~
24 ~~designated prospective adoptive parent pursuant to paragraph (1)~~
25 ~~or subparagraph (B) does not make the caretaker a party to the~~
26 ~~dependency proceeding nor does it confer on the caretaker any~~
27 ~~standing to object to any other action of the department or licensed~~
28 ~~adoption agency, unless the caretaker has been declared a de facto~~
29 ~~parent by the court prior to the notice of removal served pursuant~~
30 ~~to paragraph (3).~~

31 ~~(D) If a petition objecting to the proposal to remove the child~~
32 ~~is not filed, and the court, upon its own motion, does not set a~~
33 ~~hearing, the child may be removed from the home of the designated~~
34 ~~prospective adoptive parent without a hearing.~~

35 ~~(4) Notwithstanding paragraph (3), if the State Department of~~
36 ~~Social Services or a licensed adoption agency determines that the~~
37 ~~child must be removed from the home of the caretaker who is or~~
38 ~~may be a designated prospective adoptive parent immediately, due~~
39 ~~to a risk of physical or emotional harm, the agency may remove~~
40 ~~the child from that home and is not required to provide notice prior~~

1 to the removal. However, as soon as possible and not longer than
2 two court days after the removal, the agency shall notify the court,
3 the caretaker who is or may be a designated prospective adoptive
4 parent, the child's attorney, and the child, if the child is 10 years
5 of age or older, of the removal. Within five court days or seven
6 calendar days, whichever is longer, of the date of notification of
7 the removal, the child, the child's attorney, or the caretaker who
8 is or may be a designated prospective adoptive parent may petition
9 for, or the court on its own motion may set, a noticed hearing
10 pursuant to paragraph (3). The court may, for good cause, extend
11 the filing period.

12 (5) ~~Except as provided in subdivision (b) of Section 366.28, an~~
13 ~~order by the court issued after a hearing pursuant to this subdivision~~
14 ~~shall not be appealable.~~

15 (6) ~~Nothing in this section shall preclude a county child~~
16 ~~protective services agency from fully investigating and responding~~
17 ~~to alleged abuse or neglect of a child pursuant to Section 11165.5~~
18 ~~of the Penal Code.~~

19 (7) ~~The Judicial Council shall prepare forms to facilitate the~~
20 ~~filing of the petitions described in this subdivision, which shall~~
21 ~~become effective on January 1, 2006.~~

22 (o) ~~The implementation and operation of the amendments to~~
23 ~~paragraph (3) of subdivision (c) and subparagraph (A) of paragraph~~
24 ~~(4) of subdivision (c) enacted at the 2005-06 Regular Session shall~~
25 ~~be subject to appropriation through the budget process and by~~
26 ~~phase, as provided in Section 366.35.~~

27 (p) ~~This section shall remain in effect only until January 1, 2014,~~
28 ~~and as of that date is repealed, unless a later enacted statute, that~~
29 ~~is enacted before January 1, 2014, deletes or extends that date.~~

30 *SEC. 24. Section 366.26 of the Welfare and Institutions Code*
31 *is amended to read:*

32 366.26. (a) This section applies to children who are adjudged
33 dependent children of the juvenile court pursuant to subdivision
34 (d) of Section 360. The procedures specified herein are the
35 exclusive procedures for conducting these hearings; Part 2
36 (commencing with Section 3020) of Division 8 of the Family Code
37 is not applicable to these proceedings. Section 8616.5 of the Family
38 Code is applicable and available to all dependent children meeting
39 the requirements of that section, if the postadoption contact
40 agreement has been entered into voluntarily. For children who are

1 adjudged dependent children of the juvenile court pursuant to
2 subdivision (d) of Section 360, this section and Sections 8604,
3 8605, 8606, and 8700 of the Family Code and Chapter 5
4 (commencing with Section 7660) of Part 3 of Division 12 of the
5 Family Code specify the exclusive procedures for permanently
6 terminating parental rights with regard to, or establishing legal
7 guardianship of, the child while the child is a dependent child of
8 the juvenile court.

9 (b) At the hearing, which shall be held in juvenile court for all
10 children who are dependents of the juvenile court, the court, in
11 order to provide stable, permanent homes for these children, shall
12 review the report as specified in Section 361.5, 366.21, 366.22, or
13 366.25, shall indicate that the court has read and considered it,
14 shall receive other evidence that the parties may present, and then
15 shall make findings and orders in the following order of preference:

16 (1) Terminate the rights of the parent or parents and order that
17 the child be placed for adoption and, upon the filing of a petition
18 for adoption in the juvenile court, order that a hearing be set. The
19 court shall proceed with the adoption after the appellate rights of
20 the natural parents have been exhausted.

21 (2) Order, without termination of parental rights, the plan of
22 tribal customary adoption, as described in Section 366.24, through
23 tribal custom, traditions, or law of the Indian child's tribe, and
24 upon the court affording the tribal customary adoption order full
25 faith and credit at the continued selection and implementation
26 hearing, order that a hearing be set pursuant to paragraph (2) of
27 subdivision (e).

28 (3) Appoint a relative or relatives with whom the child is
29 currently residing as legal guardian or guardians for the child, and
30 order that letters of guardianship issue.

31 (4) On making a finding under paragraph (3) of subdivision (c),
32 identify adoption or tribal customary adoption as the permanent
33 placement goal and order that efforts be made to locate an
34 appropriate adoptive family for the child within a period not to
35 exceed 180 days.

36 (5) Appoint a nonrelative legal guardian for the child and order
37 that letters of guardianship issue.

38 (6) Order that the child be placed in long-term foster care,
39 subject to the periodic review of the juvenile court under Section
40 366.3.

1 In choosing among the above alternatives the court shall proceed
2 pursuant to subdivision (c).

3 (c) (1) If the court determines, based on the assessment provided
4 as ordered under subdivision (i) of Section 366.21, subdivision (b)
5 of Section 366.22, or subdivision (b) of Section 366.25, and any
6 other relevant evidence, by a clear and convincing standard, that
7 it is likely the child will be adopted, the court shall terminate
8 parental rights and order the child placed for adoption. The fact
9 that the child is not yet placed in a preadoptive home nor with a
10 relative or foster family who is prepared to adopt the child, shall
11 not constitute a basis for the court to conclude that it is not likely
12 the child will be adopted. A finding under subdivision (b) or
13 paragraph (1) of subdivision (e) of Section 361.5 that reunification
14 services shall not be offered, under subdivision (e) of Section
15 366.21 that the whereabouts of a parent have been unknown for
16 six months or that the parent has failed to visit or contact the child
17 for six months, or that the parent has been convicted of a felony
18 indicating parental unfitness, or, under Section 366.21 or 366.22,
19 that the court has continued to remove the child from the custody
20 of the parent or guardian and has terminated reunification services,
21 shall constitute a sufficient basis for termination of parental rights.
22 Under these circumstances, the court shall terminate parental rights
23 unless either of the following applies:

24 (A) The child is living with a relative who is unable or unwilling
25 to adopt the child because of circumstances that do not include an
26 unwillingness to accept legal or financial responsibility for the
27 child, but who is willing and capable of providing the child with
28 a stable and permanent environment through legal guardianship,
29 and the removal of the child from the custody of his or her relative
30 would be detrimental to the emotional well-being of the child. For
31 purposes of an Indian child, “relative” shall include an “extended
32 family member,” as defined in the federal Indian Child Welfare
33 Act (25 U.S.C. Sec. 1903(2)).

34 (B) The court finds a compelling reason for determining that
35 termination would be detrimental to the child due to one or more
36 of the following circumstances:

37 (i) The parents have maintained regular visitation and contact
38 with the child and the child would benefit from continuing the
39 relationship.

1 (ii) A child 12 years of age or older objects to termination of
2 parental rights.

3 (iii) The child is placed in a residential treatment facility,
4 adoption is unlikely or undesirable, and continuation of parental
5 rights will not prevent finding the child a permanent family
6 placement if the parents cannot resume custody when residential
7 care is no longer needed.

8 (iv) The child is living with a foster parent or Indian custodian
9 who is unable or unwilling to adopt the child because of
10 exceptional circumstances, that do not include an unwillingness
11 to accept legal or financial responsibility for the child, but who is
12 willing and capable of providing the child with a stable and
13 permanent environment and the removal of the child from the
14 physical custody of his or her foster parent or Indian custodian
15 would be detrimental to the emotional well-being of the child. This
16 clause does not apply to any child who is either (I) under six years
17 of age or (II) a member of a sibling group where at least one child
18 is under six years of age and the siblings are, or should be,
19 permanently placed together.

20 (v) There would be substantial interference with a child's sibling
21 relationship, taking into consideration the nature and extent of the
22 relationship, including, but not limited to, whether the child was
23 raised with a sibling in the same home, whether the child shared
24 significant common experiences or has existing close and strong
25 bonds with a sibling, and whether ongoing contact is in the child's
26 best interest, including the child's long-term emotional interest,
27 as compared to the benefit of legal permanence through adoption.

28 (vi) The child is an Indian child and there is a compelling reason
29 for determining that termination of parental rights would not be
30 in the best interest of the child, including, but not limited to:

31 (I) Termination of parental rights would substantially interfere
32 with the child's connection to his or her tribal community or the
33 child's tribal membership rights.

34 (II) The child's tribe has identified guardianship, long-term
35 foster care with a fit and willing relative, tribal customary adoption,
36 or another planned permanent living arrangement for the child.

37 (III) *The child is a nonminor dependent, and the nonminor and*
38 *the nonminor's tribe have identified tribal customary adoption for*
39 *the nonminor.*

1 (C) For purposes of subparagraph (B), in the case of tribal
2 customary adoptions, Section 366.24 shall apply.

3 (D) If the court finds that termination of parental rights would
4 be detrimental to the child pursuant to clause (i), (ii), (iii), (iv),
5 (v), or (vi), it shall state its reasons in writing or on the record.

6 (2) The court shall not terminate parental rights if:

7 (A) At each hearing at which the court was required to consider
8 reasonable efforts or services, the court has found that reasonable
9 efforts were not made or that reasonable services were not offered
10 or provided.

11 (B) In the case of an Indian child:

12 (i) At the hearing terminating parental rights, the court has found
13 that active efforts were not made as required in Section 361.7.

14 (ii) The court does not make a determination at the hearing
15 terminating parental rights, supported by evidence beyond a
16 reasonable doubt, including testimony of one or more “qualified
17 expert witnesses” as defined in Section 224.6, that the continued
18 custody of the child by the parent is likely to result in serious
19 emotional or physical damage to the child.

20 (iii) The court has ordered tribal customary adoption pursuant
21 to Section 366.24.

22 (3) If the court finds that termination of parental rights would
23 not be detrimental to the child pursuant to paragraph (1) and that
24 the child has a probability for adoption but is difficult to place for
25 adoption and there is no identified or available prospective adoptive
26 parent, the court may identify adoption as the permanent placement
27 goal and without terminating parental rights, order that efforts be
28 made to locate an appropriate adoptive family for the child, within
29 the state or out of the state, within a period not to exceed 180 days.
30 During this 180-day period, the public agency responsible for
31 seeking adoptive parents for each child shall, to the extent possible,
32 ask each child who is 10 years of age or older, to identify any
33 individuals, other than the child’s siblings, who are important to
34 the child, in order to identify potential adoptive parents. The public
35 agency may ask any other child to provide that information, as
36 appropriate. During the 180-day period, the public agency shall,
37 to the extent possible, contact other private and public adoption
38 agencies regarding the availability of the child for adoption. During
39 the 180-day period, the public agency shall conduct the search for
40 adoptive parents in the same manner as prescribed for children in

1 Sections 8708 and 8709 of the Family Code. At the expiration of
2 this period, another hearing shall be held and the court shall
3 proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision
4 (b). For purposes of this section, a child may only be found to be
5 difficult to place for adoption if there is no identified or available
6 prospective adoptive parent for the child because of the child's
7 membership in a sibling group, or the presence of a diagnosed
8 medical, physical, or mental handicap, or the child is seven years
9 of age or more.

10 (4) (A) If the court finds that adoption of the child or
11 termination of parental rights is not in the best interest of the child,
12 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or
13 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)
14 applies, the court shall either order that the present caretakers or
15 other appropriate persons shall become legal guardians of the child
16 order that the child remain in long-term foster care, or, in the case
17 of an Indian child, consider a tribal customary adoption pursuant
18 to Section 366.24. Legal guardianship shall be considered before
19 long-term foster care, if it is in the best interests of the child and
20 if a suitable guardian can be found. A child who is 10 years of age
21 or older, shall be asked to identify any individuals, other than the
22 child's siblings, who are important to the child, in order to identify
23 potential guardians or, in the case of an Indian child, prospective
24 tribal customary adoptive parents. The agency may ask any other
25 child to provide that information, as appropriate.

26 (B) If the child is living with a relative or a foster parent who
27 is willing and capable of providing a stable and permanent
28 environment, but not willing to become a legal guardian, the child
29 shall not be removed from the home if the court finds the removal
30 would be seriously detrimental to the emotional well-being of the
31 child because the child has substantial psychological ties to the
32 relative caretaker or foster parents.

33 (C) The court shall also make an order for visitation with the
34 parents or guardians unless the court finds by a preponderance of
35 the evidence that the visitation would be detrimental to the physical
36 or emotional well-being of the child.

37 (5) If the court finds that the child should not be placed for
38 adoption, that legal guardianship shall not be established, and that
39 there are no suitable foster parents except exclusive-use homes
40 available to provide the child with a stable and permanent

1 environment, the court may order the care, custody, and control
2 of the child transferred from the county welfare department to a
3 licensed foster family agency. The court shall consider the written
4 recommendation of the county welfare director regarding the
5 suitability of the transfer. The transfer shall be subject to further
6 court orders.

7 The licensed foster family agency shall place the child in a
8 suitable licensed or exclusive-use home that has been certified by
9 the agency as meeting licensing standards. The licensed foster
10 family agency shall be responsible for supporting the child and
11 providing appropriate services to the child, including those services
12 ordered by the court. Responsibility for the support of the child
13 shall not, in and of itself, create liability on the part of the foster
14 family agency to third persons injured by the child. Those children
15 whose care, custody, and control are transferred to a foster family
16 agency shall not be eligible for foster care maintenance payments
17 or child welfare services, except for emergency response services
18 pursuant to Section 16504.

19 (d) The proceeding for the appointment of a guardian for a child
20 who is a dependent of the juvenile court shall be in the juvenile
21 court. If the court finds pursuant to this section that legal
22 guardianship is the appropriate permanent plan, it shall appoint
23 the legal guardian and issue letters of guardianship. The assessment
24 prepared pursuant to subdivision (g) of Section 361.5, subdivision
25 (i) of Section 366.21, subdivision (b) of Section 366.22, and
26 subdivision (b) of Section 366.25 shall be read and considered by
27 the court prior to the appointment, and this shall be reflected in
28 the minutes of the court. The person preparing the assessment may
29 be called and examined by any party to the proceeding.

30 (e) (1) The proceeding for the adoption of a child who is a
31 dependent of the juvenile court shall be in the juvenile court if the
32 court finds pursuant to this section that adoption is the appropriate
33 permanent plan and the petition for adoption is filed in the juvenile
34 court. Upon the filing of a petition for adoption, the juvenile court
35 shall order that an adoption hearing be set. The court shall proceed
36 with the adoption after the appellate rights of the natural parents
37 have been exhausted. The full report required by Section 8715 of
38 the Family Code shall be read and considered by the court prior
39 to the adoption and this shall be reflected in the minutes of the
40 court. The person preparing the report may be called and examined

1 by any party to the proceeding. It is the intent of the Legislature,
2 pursuant to this subdivision, to give potential adoptive parents the
3 option of filing in the juvenile court the petition for the adoption
4 of a child who is a dependent of the juvenile court. Nothing in this
5 section is intended to prevent the filing of a petition for adoption
6 in any other court as permitted by law, instead of in the juvenile
7 court.

8 (2) In the case of an Indian child, if the Indian child's tribe has
9 elected a permanent plan of tribal customary adoption, the court,
10 upon receiving the tribal customary adoption order will afford the
11 tribal customary adoption order full faith and credit to the same
12 extent that the court would afford full faith and credit to the public
13 acts, records, judicial proceedings, and judgments of any other
14 entity. Upon a determination that the tribal customary adoption
15 order may be afforded full faith and credit, consistent with Section
16 224.5, the court shall thereafter order a hearing to finalize the
17 adoption be set upon the filing of the adoption petition. The
18 prospective tribal customary adoptive parents and the child who
19 is the subject of the tribal customary adoption petition shall appear
20 before the court for the finalization hearing. The court shall
21 thereafter issue an order of adoption pursuant to Section 366.24.

22 (3) If a child who is the subject of a finalized tribal customary
23 adoption shows evidence of a developmental disability or mental
24 illness as a result of conditions existing before the tribal customary
25 adoption to the extent that the child cannot be relinquished to a
26 licensed adoption agency on the grounds that the child is considered
27 unadoptable, and of which condition the tribal customary adoptive
28 parent or parents had no knowledge or notice before the entry of
29 the tribal customary adoption order, a petition setting forth those
30 facts may be filed by the tribal customary adoptive parent or
31 parents with the juvenile court that granted the tribal customary
32 adoption petition. If these facts are proved to the satisfaction of
33 the juvenile court, it may make an order setting aside the tribal
34 customary adoption order. The set aside petition shall be filed
35 within five years of the issuance of the tribal customary adoption
36 order. The court clerk shall immediately notify the child's tribe
37 and the department in Sacramento of the petition within 60 days
38 after the notice of filing of the petition. The department shall file
39 a full report with the court and shall appear before the court for
40 the purpose of representing the child. Whenever a final decree of

1 tribal customary adoption has been vacated or set aside, the child
2 shall be returned to the custody of the county in which the
3 proceeding for tribal customary adoption was finalized. The
4 biological parent or parents of the child may petition for return of
5 custody. The disposition of the child after the court has entered an
6 order to set aside a tribal customary adoption shall include
7 consultation with the child's tribe.

8 (f) At the beginning of any proceeding pursuant to this section,
9 if the child or the parents are not being represented by previously
10 retained or appointed counsel, the court shall proceed as follows:

11 (1) In accordance with subdivision (c) of Section 317, if a child
12 before the court is without counsel, the court shall appoint counsel
13 unless the court finds that the child would not benefit from the
14 appointment of counsel. The court shall state on the record its
15 reasons for that finding.

16 (2) If a parent appears without counsel and is unable to afford
17 counsel, the court shall appoint counsel for the parent, unless this
18 representation is knowingly and intelligently waived. The same
19 counsel shall not be appointed to represent both the child and his
20 or her parent. The public defender or private counsel may be
21 appointed as counsel for the parent.

22 (3) Private counsel appointed under this section shall receive a
23 reasonable sum for compensation and expenses, the amount of
24 which shall be determined by the court. The amount shall be paid
25 by the real parties in interest, other than the child, in any
26 proportions the court deems just. However, if the court finds that
27 any of the real parties in interest are unable to afford counsel, the
28 amount shall be paid out of the general fund of the county.

29 (g) The court may continue the proceeding for a period of time
30 not to exceed 30 days as necessary to appoint counsel, and to
31 enable counsel to become acquainted with the case.

32 (h) (1) At all proceedings under this section, the court shall
33 consider the wishes of the child and shall act in the best interests
34 of the child.

35 (2) In accordance with Section 349, the child shall be present
36 in court if the child or the child's counsel so requests or the court
37 so orders. If the child is 10 years of age or older and is not present
38 at a hearing held pursuant to this section, the court shall determine
39 whether the minor was properly notified of his or her right to attend
40 the hearing and inquire as to the reason why the child is not present.

1 (3) (A) The testimony of the child may be taken in chambers
2 and outside the presence of the child's parent or parents, if the
3 child's parent or parents are represented by counsel, the counsel
4 is present, and any of the following circumstances exists:

5 (i) The court determines that testimony in chambers is necessary
6 to ensure truthful testimony.

7 (ii) The child is likely to be intimidated by a formal courtroom
8 setting.

9 (iii) The child is afraid to testify in front of his or her parent or
10 parents.

11 (B) After testimony in chambers, the parent or parents of the
12 child may elect to have the court reporter read back the testimony
13 or have the testimony summarized by counsel for the parent or
14 parents.

15 (C) The testimony of a child also may be taken in chambers and
16 outside the presence of the guardian or guardians of a child under
17 the circumstances specified in this subdivision.

18 (i) (1) Any order of the court permanently terminating parental
19 rights under this section shall be conclusive and binding upon the
20 child, upon the parent or parents and upon all other persons who
21 have been served with citation by publication or otherwise as
22 provided in this chapter. After making the order, the juvenile court
23 shall have no power to set aside, change, or modify it, except as
24 provided in paragraph (2), but nothing in this section shall be
25 construed to limit the right to appeal the order.

26 (2) A tribal customary adoption order evidencing that the Indian
27 child has been the subject of a tribal customary adoption shall be
28 afforded full faith and credit and shall have the same force and
29 effect as an order of adoption authorized by this section. The rights
30 and obligations of the parties as to the matters determined by the
31 Indian child's tribe shall be binding on all parties. A court shall
32 not order compliance with the order absent a finding that the party
33 seeking the enforcement participated, or attempted to participate,
34 in good faith, in family mediation services of the court or dispute
35 resolution through the tribe regarding the conflict, prior to the
36 filing of the enforcement action.

37 (3) A child who has not been adopted after the passage of at
38 least three years from the date the court terminated parental rights
39 and for whom the court has determined that adoption is no longer
40 the permanent plan may petition the juvenile court to reinstate

1 parental rights pursuant to the procedure prescribed by Section
2 388. The child may file the petition prior to the expiration of this
3 three-year period if the State Department of Social Services, county
4 adoption agency, or licensed adoption agency that is responsible
5 for custody and supervision of the child as described in subdivision
6 (j) and the child stipulate that the child is no longer likely to be
7 adopted. A child over 12 years of age shall sign the petition in the
8 absence of a showing of good cause as to why the child could not
9 do so. If it appears that the best interests of the child may be
10 promoted by reinstatement of parental rights, the court shall order
11 that a hearing be held and shall give prior notice, or cause prior
12 notice to be given, to the social worker or probation officer and to
13 the child's attorney of record, or, if there is no attorney of record
14 for the child, to the child, and the child's tribe, if applicable, by
15 means prescribed by subdivision (c) of Section 297. The court
16 shall order the child or the social worker or probation officer to
17 give prior notice of the hearing to the child's former parent or
18 parents whose parental rights were terminated in the manner
19 prescribed by subdivision (f) of Section 294 where the
20 recommendation is adoption. The juvenile court shall grant the
21 petition if it finds by clear and convincing evidence that the child
22 is no longer likely to be adopted and that reinstatement of parental
23 rights is in the child's best interest. If the court reinstates parental
24 rights over a child who is under 12 years of age and for whom the
25 new permanent plan will not be reunification with a parent or legal
26 guardian, the court shall specify the factual basis for its findings
27 that it is in the best interest of the child to reinstate parental rights.
28 This subdivision is intended to be retroactive and applies to any
29 child who is under the jurisdiction of the juvenile court at the time
30 of the hearing regardless of the date parental rights were terminated.
31 (j) If the court, by order or judgment, declares the child free
32 from the custody and control of both parents, or one parent if the
33 other does not have custody and control, or declares the child
34 eligible for tribal customary adoption, the court shall at the same
35 time order the child referred to the State Department of Social
36 Services, county adoption agency, or licensed adoption agency for
37 adoptive placement by the agency. However, except in the case
38 of a tribal customary adoption where there is no termination of
39 parental rights, a petition for adoption may not be granted until
40 the appellate rights of the natural parents have been exhausted.

1 The State Department of Social Services, county adoption agency,
2 or licensed adoption agency shall be responsible for the custody
3 and supervision of the child and shall be entitled to the exclusive
4 care and control of the child at all times until a petition for adoption
5 or tribal customary adoption is granted, except as specified in
6 subdivision (n). With the consent of the agency, the court may
7 appoint a guardian of the child, who shall serve until the child is
8 adopted.

9 (k) Notwithstanding any other provision of law, the application
10 of any person who, as a relative caretaker or foster parent, has
11 cared for a dependent child for whom the court has approved a
12 permanent plan for adoption, or who has been freed for adoption,
13 shall be given preference with respect to that child over all other
14 applications for adoptive placement if the agency making the
15 placement determines that the child has substantial emotional ties
16 to the relative caretaker or foster parent and removal from the
17 relative caretaker or foster parent would be seriously detrimental
18 to the child's emotional well-being.

19 As used in this subdivision, "preference" means that the
20 application shall be processed and, if satisfactory, the family study
21 shall be completed before the processing of the application of any
22 other person for the adoptive placement of the child.

23 (l) (1) An order by the court that a hearing pursuant to this
24 section be held is not appealable at any time unless all of the
25 following apply:

26 (A) A petition for extraordinary writ review was filed in a timely
27 manner.

28 (B) The petition substantively addressed the specific issues to
29 be challenged and supported that challenge by an adequate record.

30 (C) The petition for extraordinary writ review was summarily
31 denied or otherwise not decided on the merits.

32 (2) Failure to file a petition for extraordinary writ review within
33 the period specified by rule, to substantively address the specific
34 issues challenged, or to support that challenge by an adequate
35 record shall preclude subsequent review by appeal of the findings
36 and orders made pursuant to this section.

37 (3) The Judicial Council shall adopt rules of court, effective
38 January 1, 1995, to ensure all of the following:

39 (A) A trial court, after issuance of an order directing a hearing
40 pursuant to this section be held, shall advise all parties of the

1 requirement of filing a petition for extraordinary writ review as
2 set forth in this subdivision in order to preserve any right to appeal
3 in these issues. This notice shall be made orally to a party if the
4 party is present at the time of the making of the order or by
5 first-class mail by the clerk of the court to the last known address
6 of a party not present at the time of the making of the order.

7 (B) The prompt transmittal of the records from the trial court
8 to the appellate court.

9 (C) That adequate time requirements for counsel and court
10 personnel exist to implement the objective of this subdivision.

11 (D) That the parent or guardian, or their trial counsel or other
12 counsel, is charged with the responsibility of filing a petition for
13 extraordinary writ relief pursuant to this subdivision.

14 (4) The intent of this subdivision is to do both of the following:

15 (A) Make every reasonable attempt to achieve a substantive and
16 meritorious review by the appellate court within the time specified
17 in Sections 366.21, 366.22, and 366.25 for holding a hearing
18 pursuant to this section.

19 (B) Encourage the appellate court to determine all writ petitions
20 filed pursuant to this subdivision on their merits.

21 (5) This subdivision shall only apply to cases in which an order
22 to set a hearing pursuant to this section is issued on or after January
23 1, 1995.

24 (m) Except for subdivision (j), this section shall also apply to
25 minors adjudged wards pursuant to Section 727.31.

26 (n) (1) Notwithstanding Section 8704 of the Family Code or
27 any other provision of law, the court, at a hearing held pursuant
28 to this section or anytime thereafter, may designate a current
29 caretaker as a prospective adoptive parent if the child has lived
30 with the caretaker for at least six months, the caretaker currently
31 expresses a commitment to adopt the child, and the caretaker has
32 taken at least one step to facilitate the adoption process. In
33 determining whether to make that designation, the court may take
34 into consideration whether the caretaker is listed in the preliminary
35 assessment prepared by the county department in accordance with
36 subdivision (i) of Section 366.21 as an appropriate person to be
37 considered as an adoptive parent for the child and the
38 recommendation of the State Department of Social Services, county
39 adoption agency, or licensed adoption agency.

1 (2) For purposes of this subdivision, steps to facilitate the
2 adoption process include, but are not limited to, the following:

3 (A) Applying for an adoption home study.

4 (B) Cooperating with an adoption home study.

5 (C) Being designated by the court or the adoption agency as the
6 adoptive family.

7 (D) Requesting de facto parent status.

8 (E) Signing an adoptive placement agreement.

9 (F) Engaging in discussions regarding a postadoption contact
10 agreement.

11 (G) Working to overcome any impediments that have been
12 identified by the State Department of Social Services, county
13 adoption agency, or licensed adoption agency.

14 (H) Attending classes required of prospective adoptive parents.

15 (3) Prior to a change in placement and as soon as possible after
16 a decision is made to remove a child from the home of a designated
17 prospective adoptive parent, the agency shall notify the court, the
18 designated prospective adoptive parent or the current caretaker, if
19 that caretaker would have met the threshold criteria to be
20 designated as a prospective adoptive parent pursuant to paragraph
21 (1) on the date of service of this notice, the child's attorney, and
22 the child, if the child is 10 years of age or older, of the proposal
23 in the manner described in Section 16010.6.

24 (A) Within five court days or seven calendar days, whichever
25 is longer, of the date of notification, the child, the child's attorney,
26 or the designated prospective adoptive parent may file a petition
27 with the court objecting to the proposal to remove the child, or the
28 court, upon its own motion, may set a hearing regarding the
29 proposal. The court may, for good cause, extend the filing period.
30 A caretaker who would have met the threshold criteria to be
31 designated as a prospective adoptive parent pursuant to paragraph
32 (1) on the date of service of the notice of proposed removal of the
33 child may file, together with the petition under this subparagraph,
34 a petition for an order designating the caretaker as a prospective
35 adoptive parent for purposes of this subdivision.

36 (B) A hearing ordered pursuant to this paragraph shall be held
37 as soon as possible and not later than five court days after the
38 petition is filed with the court or the court sets a hearing upon its
39 own motion, unless the court for good cause is unable to set the
40 matter for hearing five court days after the petition is filed, in

1 which case the court shall set the matter for hearing as soon as
2 possible. At the hearing, the court shall determine whether the
3 caretaker has met the threshold criteria to be designated as a
4 prospective adoptive parent pursuant to paragraph (1), and whether
5 the proposed removal of the child from the home of the designated
6 prospective adoptive parent is in the child's best interest, and the
7 child may not be removed from the home of the designated
8 prospective adoptive parent unless the court finds that removal is
9 in the child's best interest. If the court determines that the caretaker
10 did not meet the threshold criteria to be designated as a prospective
11 adoptive parent on the date of service of the notice of proposed
12 removal of the child, the petition objecting to the proposed removal
13 filed by the caretaker shall be dismissed. If the caretaker was
14 designated as a prospective adoptive parent prior to this hearing,
15 the court shall inquire into any progress made by the caretaker
16 towards the adoption of the child since the caretaker was designated
17 as a prospective adoptive parent.

18 (C) A determination by the court that the caretaker is a
19 designated prospective adoptive parent pursuant to paragraph (1)
20 or subparagraph (B) does not make the caretaker a party to the
21 dependency proceeding nor does it confer on the caretaker any
22 standing to object to any other action of the department, county
23 adoption agency, or licensed adoption agency, unless the caretaker
24 has been declared a de facto parent by the court prior to the notice
25 of removal served pursuant to paragraph (3).

26 (D) If a petition objecting to the proposal to remove the child
27 is not filed, and the court, upon its own motion, does not set a
28 hearing, the child may be removed from the home of the designated
29 prospective adoptive parent without a hearing.

30 (4) Notwithstanding paragraph (3), if the State Department of
31 Social Services, county adoption agency, or licensed adoption
32 agency determines that the child must be removed from the home
33 of the caretaker who is or may be a designated prospective adoptive
34 parent immediately, due to a risk of physical or emotional harm,
35 the agency may remove the child from that home and is not
36 required to provide notice prior to the removal. However, as soon
37 as possible and not longer than two court days after the removal,
38 the agency shall notify the court, the caretaker who is or may be
39 a designated prospective adoptive parent, the child's attorney, and
40 the child, if the child is 10 years of age or older, of the removal.

1 Within five court days or seven calendar days, whichever is longer,
2 of the date of notification of the removal, the child, the child's
3 attorney, or the caretaker who is or may be a designated prospective
4 adoptive parent may petition for, or the court on its own motion
5 may set, a noticed hearing pursuant to paragraph (3). The court
6 may, for good cause, extend the filing period.

7 (5) Except as provided in subdivision (b) of Section 366.28, an
8 order by the court issued after a hearing pursuant to this subdivision
9 shall not be appealable.

10 (6) Nothing in this section shall preclude a county child
11 protective services agency from fully investigating and responding
12 to alleged abuse or neglect of a child pursuant to Section 11165.5
13 of the Penal Code.

14 (7) The Judicial Council shall prepare forms to facilitate the
15 filing of the petitions described in this subdivision, which shall
16 become effective on January 1, 2006.

17 (o) The implementation and operation of the amendments to
18 paragraph (3) of subdivision (c) and subparagraph (A) of paragraph
19 (4) of subdivision (c) enacted at the 2005–06 Regular Session shall
20 be subject to appropriation through the budget process and by
21 phase, as provided in Section 366.35.

22 SEC. 27. Section 366.3 of the Welfare and Institutions Code,
23 as amended by Section 22 of Chapter 559 of the Statutes of 2010,
24 is amended to read:

25 ~~366.3. (a) If a juvenile court orders a permanent plan of~~
26 ~~adoption, tribal customary adoption, adoption of a nonminor~~
27 ~~dependent pursuant to Section 9300 of the Family Code, or legal~~
28 ~~guardianship pursuant to Section 360 or 366.26, the court shall~~
29 ~~retain jurisdiction over the child or nonminor dependent until the~~
30 ~~child or nonminor dependent is adopted or the legal guardianship~~
31 ~~is established, except as provided for in Section 366.29 or, on and~~
32 ~~after January 1, 2012, Section 366.32. The status of the child or~~
33 ~~nonminor dependent shall be reviewed every six months to ensure~~
34 ~~that the adoption or legal guardianship is completed as~~
35 ~~expeditiously as possible. When the adoption of the child or~~
36 ~~nonminor dependent has been granted, or in the case of a tribal~~
37 ~~customary adoption, when the tribal customary adoption order has~~
38 ~~been afforded full faith and credit and the petition for adoption~~
39 ~~has been granted, the court shall terminate its jurisdiction over the~~
40 ~~child or nonminor dependent. Following establishment of a legal~~

guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least six months, the court shall, except if the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights, the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held either in the juvenile court that retains jurisdiction over the guardianship as authorized by Section 366.4 or the juvenile court in the county where the guardian and child currently reside, based on the best interests of the child, unless the termination is due to the emancipation or adoption of the child. The juvenile court having jurisdiction over the guardianship shall receive notice from the court in which the petition is filed within five calendar days of the filing. Prior to the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county department of social services or welfare department having jurisdiction or jointly with the county department where the guardian and child currently reside to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable,

1 the report shall also identify recommended family maintenance or
2 reunification services to maintain the legal guardianship and set
3 forth a plan for providing those services. If the petition to terminate
4 legal guardianship is granted, either juvenile court may resume
5 dependency jurisdiction over the child, and may order the county
6 department of social services or welfare department to develop a
7 new permanent plan, which shall be presented to the court within
8 60 days of the termination. If no dependency jurisdiction has
9 attached, the social worker shall make any investigation he or she
10 deems necessary to determine whether the child may be within the
11 jurisdiction of the juvenile court, as provided in Section 328.

12 Unless the parental rights of the child's parent or parents have
13 been terminated, they shall be notified that the legal guardianship
14 has been revoked or terminated and shall be entitled to participate
15 in the new permanency planning hearing. The court shall try to
16 place the child in another permanent placement. At the hearing,
17 the parents may be considered as custodians but the child shall not
18 be returned to the parent or parents unless they prove, by a
19 preponderance of the evidence, that reunification is the best
20 alternative for the child. The court may, if it is in the best interests
21 of the child, order that reunification services again be provided to
22 the parent or parents.

23 (e) If, following the establishment of a legal guardianship, the
24 county welfare department becomes aware of changed
25 circumstances that indicate adoption or, for an Indian child, tribal
26 customary adoption, may be an appropriate plan for the child, the
27 department shall so notify the court. The court may vacate its
28 previous order dismissing dependency jurisdiction over the child
29 and order that a hearing be held pursuant to Section 366.26 to
30 determine whether adoption or continued legal guardianship is the
31 most appropriate plan for the child. The hearing shall be held no
32 later than 120 days from the date of the order. If the court orders
33 that a hearing shall be held pursuant to Section 366.26, the court
34 shall direct the agency supervising the child and the licensed county
35 adoption agency, or the State Department of Social Services if it
36 is acting as an adoption agency in counties that are not served by
37 a county adoption agency, to prepare an assessment under
38 subdivision (b) of Section 366.22.

39 (d) If the child or, on and after January 1, 2012, nonminor
40 dependent is in a placement other than the home of a legal guardian

1 and jurisdiction has not been dismissed, the status of the child shall
2 be reviewed at least every six months. The review of the status of
3 a child for whom the court has ordered parental rights terminated
4 and who has been ordered placed for adoption shall be conducted
5 by the court. The review of the status of a child or, on and after
6 January 1, 2012, nonminor dependent for whom the court has not
7 ordered parental rights terminated and who has not been ordered
8 placed for adoption may be conducted by the court or an
9 appropriate local agency. The court shall conduct the review under
10 the following circumstances:

11 (1) Upon the request of the child's parents or legal guardians.

12 (2) Upon the request of the child or, on and after January 1,
13 2012, nonminor dependent.

14 (3) It has been 12 months since a hearing held pursuant to
15 Section 366.26 or an order that the child remain in long-term foster
16 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
17 subdivision (h):

18 (4) It has been 12 months since a review was conducted by the
19 court.

20 The court shall determine whether or not reasonable efforts to
21 make and finalize a permanent placement for the child have been
22 made:

23 (e) Except as provided in subdivision (g), at the review held
24 every six months pursuant to subdivision (d), the reviewing body
25 shall inquire about the progress being made to provide a permanent
26 home for the child, shall consider the safety of the child, and shall
27 determine all of the following:

28 (1) The continuing necessity for, and appropriateness of, the
29 placement.

30 (2) Identification of individuals other than the child's siblings
31 who are important to a child who is 10 years of age or older and
32 has been in out-of-home placement for six months or longer, and
33 actions necessary to maintain the child's relationship with those
34 individuals, provided that those relationships are in the best interest
35 of the child. The social worker shall ask every child who is 10
36 years of age or older and who has been in out-of-home placement
37 for six months or longer to identify individuals other than the
38 child's siblings who are important to the child, and may ask any
39 other child to provide that information, as appropriate. The social

1 worker shall make efforts to identify other individuals who are
2 important to the child, consistent with the child's best interests.

3 (3) ~~The continuing appropriateness and extent of compliance~~
4 ~~with the permanent plan for the child, including efforts to maintain~~
5 ~~relationships between a child who is 10 years of age or older and~~
6 ~~who has been in out-of-home placement for six months or longer~~
7 ~~and individuals who are important to the child and efforts to~~
8 ~~identify a prospective adoptive parent or legal guardian, including,~~
9 ~~but not limited to, child-specific recruitment efforts and listing on~~
10 ~~an adoption exchange.~~

11 (4) ~~The extent of the agency's compliance with the child welfare~~
12 ~~services case plan in making reasonable efforts either to return the~~
13 ~~child to the safe home of the parent or to complete whatever steps~~
14 ~~are necessary to finalize the permanent placement of the child. If~~
15 ~~the reviewing body determines that a second period of reunification~~
16 ~~services is in the child's best interests, and that there is a significant~~
17 ~~likelihood of the child's return to a safe home due to changed~~
18 ~~circumstances of the parent, pursuant to subdivision (f), the specific~~
19 ~~reunification services required to effect the child's return to a safe~~
20 ~~home shall be described.~~

21 (5) ~~Whether there should be any limitation on the right of the~~
22 ~~parent or guardian to make educational decisions for the child.~~
23 ~~That limitation shall be specifically addressed in the court order~~
24 ~~and may not exceed what is necessary to protect the child. If the~~
25 ~~court specifically limits the right of the parent or guardian to make~~
26 ~~educational decisions for the child, the court shall at the same time~~
27 ~~appoint a responsible adult to make educational decisions for the~~
28 ~~child pursuant to Section 361.~~

29 (6) ~~The adequacy of services provided to the child. The court~~
30 ~~shall consider the progress in providing the information and~~
31 ~~documents to the child, as described in Section 391. The court~~
32 ~~shall also consider the need for, and progress in providing, the~~
33 ~~assistance and services described in Section 391.~~

34 (7) ~~The extent of progress the parents or legal guardians have~~
35 ~~made toward alleviating or mitigating the causes necessitating~~
36 ~~placement in foster care.~~

37 (8) ~~The likely date by which the child may be returned to, and~~
38 ~~safely maintained in, the home, placed for adoption, legal~~
39 ~~guardianship, in another planned permanent living arrangement,~~

1 or, for an Indian child, in consultation with the child's tribe, placed
2 for tribal customary adoption.

3 (9) ~~Whether the child has any siblings under the court's~~
4 ~~jurisdiction, and, if any siblings exist, all of the following:~~

5 (A) ~~The nature of the relationship between the child and his or~~
6 ~~her siblings.~~

7 (B) ~~The appropriateness of developing or maintaining the sibling~~
8 ~~relationships pursuant to Section 16002.~~

9 (C) ~~If the siblings are not placed together in the same home,~~
10 ~~why the siblings are not placed together and what efforts are being~~
11 ~~made to place the siblings together, or why those efforts are not~~
12 ~~appropriate.~~

13 (D) ~~If the siblings are not placed together, the frequency and~~
14 ~~nature of the visits between siblings.~~

15 (E) ~~The impact of the sibling relationships on the child's~~
16 ~~placement and planning for legal permanency.~~

17 ~~The factors the court may consider as indicators of the nature of~~
18 ~~the child's sibling relationships include, but are not limited to,~~
19 ~~whether the siblings were raised together in the same home,~~
20 ~~whether the siblings have shared significant common experiences~~
21 ~~or have existing close and strong bonds, whether either sibling~~
22 ~~expresses a desire to visit or live with his or her sibling, as~~
23 ~~applicable, and whether ongoing contact is in the child's best~~
24 ~~emotional interests.~~

25 (10) ~~For a child who is 16 years of age or older, and, effective~~
26 ~~January 1, 2012, for a nonminor dependent, the services needed~~
27 ~~to assist the child or nonminor dependent to make the transition~~
28 ~~from foster care to independent living.~~

29 ~~The reviewing body shall determine whether or not reasonable~~
30 ~~efforts to make and finalize a permanent placement for the child~~
31 ~~have been made.~~

32 ~~Each licensed foster family agency shall submit reports for each~~
33 ~~child in its care, custody, and control to the court concerning the~~
34 ~~continuing appropriateness and extent of compliance with the~~
35 ~~child's permanent plan, the extent of compliance with the case~~
36 ~~plan, and the type and adequacy of services provided to the child.~~

37 (f) ~~Unless their parental rights have been permanently~~
38 ~~terminated, the parent or parents of the child are entitled to receive~~
39 ~~notice of, and participate in, those hearings. It shall be presumed~~
40 ~~that continued care is in the best interests of the child, unless the~~

1 parent or parents prove, by a preponderance of the evidence, that
2 further efforts at reunification are the best alternative for the child.
3 In those cases, the court may order that further reunification
4 services to return the child to a safe home environment be provided
5 to the parent or parents up to a period of six months, and family
6 maintenance services, as needed for an additional six months in
7 order to return the child to a safe home environment. On and after
8 January 1, 2012, this subdivision shall not apply to the parents of
9 a nonminor dependent.

10 (g) At the review conducted by the court and held at least every
11 six months, regarding a child for whom the court has ordered
12 parental rights terminated and who has been ordered placed for
13 adoption, or, for an Indian child for whom parental rights are not
14 being terminated and a tribal customary adoption is being
15 considered, the county welfare department shall prepare and present
16 to the court a report describing the following:

17 (1) The child's present placement.

18 (2) The child's current physical, mental, emotional, and
19 educational status.

20 (3) If the child has not been placed with a prospective adoptive
21 parent or guardian, identification of individuals, other than the
22 child's siblings, who are important to the child and actions
23 necessary to maintain the child's relationship with those
24 individuals, provided that those relationships are in the best interest
25 of the child. The agency shall ask every child who is 10 years of
26 age or older to identify any individuals who are important to him
27 or her, consistent with the child's best interest, and may ask any
28 child who is younger than 10 years of age to provide that
29 information as appropriate. The agency shall make efforts to
30 identify other individuals who are important to the child.

31 (4) Whether the child has been placed with a prospective
32 adoptive parent or parents.

33 (5) Whether an adoptive placement agreement has been signed
34 and filed.

35 (6) If the child has not been placed with a prospective adoptive
36 parent or parents, the efforts made to identify an appropriate
37 prospective adoptive parent or legal guardian, including, but not
38 limited to, child-specific recruitment efforts and listing on an
39 adoption exchange.

1 ~~(7) Whether the final adoption order should include provisions~~
2 ~~for postadoptive sibling contact pursuant to Section 366.29.~~

3 ~~(8) The progress of the search for an adoptive placement if one~~
4 ~~has not been identified.~~

5 ~~(9) Any impediments to the adoption or the adoptive placement.~~

6 ~~(10) The anticipated date by which the child will be adopted or~~
7 ~~placed in an adoptive home.~~

8 ~~(11) The anticipated date by which an adoptive placement~~
9 ~~agreement will be signed.~~

10 ~~(12) Recommendations for court orders that will assist in the~~
11 ~~placement of the child for adoption or in the finalization of the~~
12 ~~adoption.~~

13 ~~The court shall determine whether or not reasonable efforts to~~
14 ~~make and finalize a permanent placement for the child have been~~
15 ~~made.~~

16 ~~The court shall make appropriate orders to protect the stability~~
17 ~~of the child and to facilitate and expedite the permanent placement~~
18 ~~and adoption of the child.~~

19 ~~(h) At the review held pursuant to subdivision (d) for a child in~~
20 ~~long-term foster care, the court shall consider all permanency~~
21 ~~planning options for the child including whether the child should~~
22 ~~be returned to the home of the parent, placed for adoption, or, for~~
23 ~~an Indian child, in consultation with the child's tribe, placed for~~
24 ~~tribal customary adoption, or appointed a legal guardian, or, if~~
25 ~~compelling reasons exist for finding that none of the foregoing~~
26 ~~options are in the best interest of the child, whether the child should~~
27 ~~be placed in another planned permanent living arrangement. The~~
28 ~~court shall order that a hearing be held pursuant to Section 366.26,~~
29 ~~unless it determines by clear and convincing evidence that there~~
30 ~~is a compelling reason for determining that a hearing held pursuant~~
31 ~~to Section 366.26 is not in the best interest of the child because~~
32 ~~the child is being returned to the home of the parent, the child is~~
33 ~~not a proper subject for adoption, or no one is willing to accept~~
34 ~~legal guardianship. If the licensed county adoption agency, or the~~
35 ~~department when it is acting as an adoption agency in counties~~
36 ~~that are not served by a county adoption agency, has determined~~
37 ~~it is unlikely that the child will be adopted or one of the conditions~~
38 ~~described in paragraph (1) of subdivision (c) of Section 366.26~~
39 ~~applies, that fact shall constitute a compelling reason for purposes~~
40 ~~of this subdivision. Only upon that determination may the court~~

1 order that the child remain in long-term foster care, without holding
2 a hearing pursuant to Section 366.26. On and after January 1, 2012,
3 the nonminor dependent's legal status as an adult is in and of itself
4 a compelling reason not to hold a hearing pursuant to Section
5 366.26.

6 (i) ~~If, as authorized by subdivision (h), the court orders a hearing~~
7 ~~pursuant to Section 366.26, the court shall direct the agency~~
8 ~~supervising the child and the licensed county adoption agency, or~~
9 ~~the State Department of Social Services when it is acting as an~~
10 ~~adoption agency in counties that are not served by a county~~
11 ~~adoption agency, to prepare an assessment as provided for in~~
12 ~~subdivision (i) of Section 366.21 or subdivision (b) of Section~~
13 ~~366.22. A hearing held pursuant to Section 366.26 shall be held~~
14 ~~no later than 120 days from the date of the 12-month review at~~
15 ~~which it is ordered, and at that hearing the court shall determine~~
16 ~~whether adoption, tribal customary adoption, legal guardianship,~~
17 ~~or long-term foster care is the most appropriate plan for the child.~~
18 ~~On and after January 1, 2012, a hearing pursuant to Section 366.26~~
19 ~~shall not be ordered if the child is a nonminor dependent, unless~~
20 ~~the nonminor dependent is an Indian child and tribal customary~~
21 ~~adoption is recommended as the permanent plan. The court may~~
22 ~~order that a nonminor dependent who otherwise is eligible pursuant~~
23 ~~to Section 11403 remain in a planned, permanent living~~
24 ~~arrangement. At the request of the nonminor dependent who has~~
25 ~~an established relationship with an adult determined to be the~~
26 ~~nonminor's permanent connection, the court may order adoption~~
27 ~~under Section 9300 of the Family Code as the nonminor's~~
28 ~~permanent plan.~~

29 (j) ~~The implementation and operation of the amendments to~~
30 ~~subdivision (e) enacted at the 2005-06 Regular Session shall be~~
31 ~~subject to appropriation through the budget process and by phase,~~
32 ~~as provided in Section 366.35.~~

33 (k) ~~The reviews conducted pursuant to subdivision (a) or (d)~~
34 ~~may be conducted earlier than every six months if the court~~
35 ~~determines that an earlier review is in the best interests of the child~~
36 ~~or as court rules prescribe.~~

37 (l) ~~This section shall remain in effect only until January 1, 2014,~~
38 ~~and as of that date is repealed, unless a later enacted statute, that~~
39 ~~is enacted before January 1, 2014, deletes or extends that date.~~

1 ~~SEC. 28.— Section 366.3 of the Welfare and Institutions Code,~~
2 ~~as amended by Section 23 of Chapter 559 of the Statutes of 2010,~~
3 ~~is amended to read:~~

4 ~~366.3.— (a) If a juvenile court orders a permanent plan of~~
5 ~~adoption, adoption of a nonminor dependent pursuant to Section~~
6 ~~9300 of the Family Code, or legal guardianship pursuant to Section~~
7 ~~360 or 366.26, the court shall retain jurisdiction over the child or~~
8 ~~nonminor dependent until the child or nonminor dependent is~~
9 ~~adopted or, in the case of a child, the legal guardianship is~~
10 ~~established, except as provided for in Section 366.29 or, on and~~
11 ~~after January 1, 2012, Section 366.31. The status of the child or~~
12 ~~nonminor dependent shall be reviewed every six months to ensure~~
13 ~~that the adoption or legal guardianship is completed as~~
14 ~~expeditiously as possible. When the adoption of the child or~~
15 ~~nonminor dependent has been granted, the court shall terminate~~
16 ~~its jurisdiction over the child or nonminor dependent. Following~~
17 ~~establishment of a legal guardianship, the court may continue~~
18 ~~jurisdiction over the child as a dependent child of the juvenile court~~
19 ~~or may terminate its dependency jurisdiction and retain jurisdiction~~
20 ~~over the child as a ward of the legal guardianship, as authorized~~
21 ~~by Section 366.4. If, however, a relative of the child is appointed~~
22 ~~the legal guardian of the child and the child has been placed with~~
23 ~~the relative for at least six months, the court shall, except if the~~
24 ~~relative guardian objects, or upon a finding of exceptional~~
25 ~~circumstances, terminate its dependency jurisdiction and retain~~
26 ~~jurisdiction over the child as a ward of the guardianship, as~~
27 ~~authorized by Section 366.4. Following a termination of parental~~
28 ~~rights, the parent or parents shall not be a party to, or receive notice~~
29 ~~of, any subsequent proceedings regarding the child.~~

30 ~~(b) If the court has dismissed dependency jurisdiction following~~
31 ~~the establishment of a legal guardianship, or no dependency~~
32 ~~jurisdiction attached because of the granting of a legal guardianship~~
33 ~~pursuant to Section 360, and the legal guardianship is subsequently~~
34 ~~revoked or otherwise terminated, the county department of social~~
35 ~~services or welfare department shall notify the juvenile court of~~
36 ~~this fact. The court may vacate its previous order dismissing~~
37 ~~dependency jurisdiction over the child.~~

38 ~~Notwithstanding Section 1601 of the Probate Code, the~~
39 ~~proceedings to terminate a legal guardianship that has been granted~~
40 ~~pursuant to Section 360 or 366.26 shall be held either in the~~

1 juvenile court that retains jurisdiction over the guardianship as
2 authorized by Section 366.4 or the juvenile court in the county
3 where the guardian and child currently reside, based on the best
4 interests of the child, unless the termination is due to the
5 emancipation or adoption of the child. The juvenile court having
6 jurisdiction over the guardianship shall receive notice from the
7 court in which the petition is filed within five calendar days of the
8 filing. Prior to the hearing on a petition to terminate legal
9 guardianship pursuant to this subdivision, the court shall order the
10 county department of social services or welfare department having
11 jurisdiction or jointly with the county department where the
12 guardian and child currently reside to prepare a report, for the
13 court's consideration, that shall include an evaluation of whether
14 the child could safely remain in, or be returned to, the legal
15 guardian's home, without terminating the legal guardianship, if
16 services were provided to the child or legal guardian. If applicable,
17 the report shall also identify recommended family maintenance or
18 reunification services to maintain the legal guardianship and set
19 forth a plan for providing those services. If the petition to terminate
20 legal guardianship is granted, either juvenile court may resume
21 dependency jurisdiction over the child, and may order the county
22 department of social services or welfare department to develop a
23 new permanent plan, which shall be presented to the court within
24 60 days of the termination. If no dependency jurisdiction has
25 attached, the social worker shall make any investigation he or she
26 deems necessary to determine whether the child may be within the
27 jurisdiction of the juvenile court, as provided in Section 328.

28 Unless the parental rights of the child's parent or parents have
29 been terminated, they shall be notified that the legal guardianship
30 has been revoked or terminated and shall be entitled to participate
31 in the new permanency planning hearing. The court shall try to
32 place the child in another permanent placement. At the hearing,
33 the parents may be considered as custodians but the child shall not
34 be returned to the parent or parents unless they prove, by a
35 preponderance of the evidence, that reunification is the best
36 alternative for the child. The court may, if it is in the best interests
37 of the child, order that reunification services again be provided to
38 the parent or parents.

39 (e) If, following the establishment of a legal guardianship, the
40 county welfare department becomes aware of changed

1 circumstances that indicate adoption may be an appropriate plan
2 for the child, the department shall so notify the court. The court
3 may vacate its previous order dismissing dependency jurisdiction
4 over the child and order that a hearing be held pursuant to Section
5 366.26 to determine whether adoption or continued legal
6 guardianship is the most appropriate plan for the child. The hearing
7 shall be held no later than 120 days from the date of the order. If
8 the court orders that a hearing shall be held pursuant to Section
9 366.26, the court shall direct the agency supervising the child and
10 the licensed county adoption agency, or the State Department of
11 Social Services if it is acting as an adoption agency in counties
12 that are not served by a county adoption agency, to prepare an
13 assessment under subdivision (b) of Section 366.22.

14 (d) ~~If the child or, on and after January 1, 2012, nonminor~~
15 ~~dependent is in a placement other than the home of a legal guardian~~
16 ~~and jurisdiction has not been dismissed, the status of the child shall~~
17 ~~be reviewed at least every six months. The review of the status of~~
18 ~~a child for whom the court has ordered parental rights terminated~~
19 ~~and who has been ordered placed for adoption shall be conducted~~
20 ~~by the court. The review of the status of a child or, on and after~~
21 ~~January 1, 2012, nonminor dependent for whom the court has not~~
22 ~~ordered parental rights terminated and who has not been ordered~~
23 ~~placed for adoption may be conducted by the court or an~~
24 ~~appropriate local agency. The court shall conduct the review under~~
25 ~~the following circumstances:~~

26 (1) ~~Upon the request of the child's parents or legal guardians.~~

27 (2) ~~Upon the request of the child or, on and after January 1,~~
28 ~~2012, nonminor dependent.~~

29 (3) ~~It has been 12 months since a hearing held pursuant to~~
30 ~~Section 366.26 or an order that the child remain in long-term foster~~
31 ~~care pursuant to Section 366.21, 366.22, 366.25, 366.26, or~~
32 ~~subdivision (h).~~

33 (4) ~~It has been 12 months since a review was conducted by the~~
34 ~~court.~~

35 The court shall determine whether or not reasonable efforts to
36 make and finalize a permanent placement for the child have been
37 made.

38 (e) ~~Except as provided in subdivision (g), at the review held~~
39 ~~every six months pursuant to subdivision (d), the reviewing body~~
40 ~~shall inquire about the progress being made to provide a permanent~~

1 home for the child, shall consider the safety of the child, and shall
2 determine all of the following:

3 (1) ~~The continuing necessity for, and appropriateness of, the~~
4 ~~placement.~~

5 (2) ~~Identification of individuals other than the child's siblings~~
6 ~~who are important to a child who is 10 years of age or older and~~
7 ~~has been in out-of-home placement for six months or longer, and~~
8 ~~actions necessary to maintain the child's relationship with those~~
9 ~~individuals, provided that those relationships are in the best interest~~
10 ~~of the child. The social worker shall ask every child who is 10~~
11 ~~years of age or older and who has been in out-of-home placement~~
12 ~~for six months or longer to identify individuals other than the~~
13 ~~child's siblings who are important to the child, and may ask any~~
14 ~~other child to provide that information, as appropriate. The social~~
15 ~~worker shall make efforts to identify other individuals who are~~
16 ~~important to the child, consistent with the child's best interests.~~

17 (3) ~~The continuing appropriateness and extent of compliance~~
18 ~~with the permanent plan for the child, including efforts to maintain~~
19 ~~relationships between a child who is 10 years of age or older and~~
20 ~~who has been in out-of-home placement for six months or longer~~
21 ~~and individuals who are important to the child and efforts to~~
22 ~~identify a prospective adoptive parent or legal guardian, including,~~
23 ~~but not limited to, child-specific recruitment efforts and listing on~~
24 ~~an adoption exchange.~~

25 (4) ~~The extent of the agency's compliance with the child welfare~~
26 ~~services case plan in making reasonable efforts either to return the~~
27 ~~child to the safe home of the parent or to complete whatever steps~~
28 ~~are necessary to finalize the permanent placement of the child. If~~
29 ~~the reviewing body determines that a second period of reunification~~
30 ~~services is in the child's best interests, and that there is a significant~~
31 ~~likelihood of the child's return to a safe home due to changed~~
32 ~~circumstances of the parent, pursuant to subdivision (f), the specific~~
33 ~~reunification services required to effect the child's return to a safe~~
34 ~~home shall be described.~~

35 (5) ~~Whether there should be any limitation on the right of the~~
36 ~~parent or guardian to make educational decisions for the child.~~
37 ~~That limitation shall be specifically addressed in the court order~~
38 ~~and may not exceed what is necessary to protect the child. If the~~
39 ~~court specifically limits the right of the parent or guardian to make~~
40 ~~educational decisions for the child, the court shall at the same time~~

1 appoint a responsible adult to make educational decisions for the
2 child pursuant to Section 361.

3 ~~(6) The adequacy of services provided to the child. The court~~
4 ~~shall consider the progress in providing the information and~~
5 ~~documents to the child, as described in Section 391. The court~~
6 ~~shall also consider the need for, and progress in providing, the~~
7 ~~assistance and services described in Section 391.~~

8 ~~(7) The extent of progress the parents or legal guardians have~~
9 ~~made toward alleviating or mitigating the causes necessitating~~
10 ~~placement in foster care.~~

11 ~~(8) The likely date by which the child may be returned to, and~~
12 ~~safely maintained in, the home, placed for adoption, legal~~
13 ~~guardianship, or in another planned permanent living arrangement.~~

14 ~~(9) Whether the child has any siblings under the court's~~
15 ~~jurisdiction, and, if any siblings exist, all of the following:~~

16 ~~(A) The nature of the relationship between the child and his or~~
17 ~~her siblings.~~

18 ~~(B) The appropriateness of developing or maintaining the sibling~~
19 ~~relationships pursuant to Section 16002.~~

20 ~~(C) If the siblings are not placed together in the same home,~~
21 ~~why the siblings are not placed together and what efforts are being~~
22 ~~made to place the siblings together, or why those efforts are not~~
23 ~~appropriate.~~

24 ~~(D) If the siblings are not placed together, the frequency and~~
25 ~~nature of the visits between siblings.~~

26 ~~(E) The impact of the sibling relationships on the child's~~
27 ~~placement and planning for legal permanency.~~

28 ~~The factors the court may consider as indicators of the nature of~~
29 ~~the child's sibling relationships include, but are not limited to,~~
30 ~~whether the siblings were raised together in the same home,~~
31 ~~whether the siblings have shared significant common experiences~~
32 ~~or have existing close and strong bonds, whether either sibling~~
33 ~~expresses a desire to visit or live with his or her sibling, as~~
34 ~~applicable, and whether ongoing contact is in the child's best~~
35 ~~emotional interests.~~

36 ~~(10) For a child who is 16 years of age or older, and, effective~~
37 ~~January 1, 2012, for a nonminor dependent, the services needed~~
38 ~~to assist the child or nonminor dependent to make the transition~~
39 ~~from foster care to independent living.~~

1 The reviewing body shall determine whether or not reasonable
2 efforts to make and finalize a permanent placement for the child
3 have been made.

4 Each licensed foster family agency shall submit reports for each
5 child in its care, custody, and control to the court concerning the
6 continuing appropriateness and extent of compliance with the
7 child's permanent plan, the extent of compliance with the case
8 plan, and the type and adequacy of services provided to the child.

9 (f) Unless their parental rights have been permanently
10 terminated, the parent or parents of the child are entitled to receive
11 notice of, and participate in, those hearings. It shall be presumed
12 that continued care is in the best interests of the child, unless the
13 parent or parents prove, by a preponderance of the evidence, that
14 further efforts at reunification are the best alternative for the child.
15 In those cases, the court may order that further reunification
16 services to return the child to a safe home environment be provided
17 to the parent or parents up to a period of six months, and family
18 maintenance services, as needed for an additional six months in
19 order to return the child to a safe home environment. On and after
20 January 1, 2012, this subdivision shall not apply to the parents of
21 a nonminor dependent.

22 (g) At the review conducted by the court and held at least every
23 six months, regarding a child for whom the court has ordered
24 parental rights terminated and who has been ordered placed for
25 adoption, the county welfare department shall prepare and present
26 to the court a report describing the following:

27 (1) The child's present placement.

28 (2) The child's current physical, mental, emotional, and
29 educational status.

30 (3) If the child has not been placed with a prospective adoptive
31 parent or guardian, identification of individuals, other than the
32 child's siblings, who are important to the child and actions
33 necessary to maintain the child's relationship with those
34 individuals, provided that those relationships are in the best interest
35 of the child. The agency shall ask every child who is 10 years of
36 age or older to identify any individuals who are important to him
37 or her, consistent with the child's best interest, and may ask any
38 child who is younger than 10 years of age to provide that
39 information as appropriate. The agency shall make efforts to
40 identify other individuals who are important to the child.

~~(4) Whether the child has been placed with a prospective adoptive parent or parents.~~

~~(5) Whether an adoptive placement agreement has been signed and filed.~~

~~(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.~~

~~(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.~~

~~(8) The progress of the search for an adoptive placement if one has not been identified.~~

~~(9) Any impediments to the adoption or the adoptive placement.~~

~~(10) The anticipated date by which the child will be adopted or placed in an adoptive home.~~

~~(11) The anticipated date by which an adoptive placement agreement will be signed.~~

~~(12) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.~~

~~The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.~~

~~The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.~~

~~(h) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26, unless it determines by clear and convincing evidence that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for~~

1 adoption, or no one is willing to accept legal guardianship. If the
2 licensed county adoption agency, or the department when it is
3 acting as an adoption agency in counties that are not served by a
4 county adoption agency, has determined it is unlikely that the child
5 will be adopted or one of the conditions described in paragraph
6 (1) of subdivision (c) of Section 366.26 applies, that fact shall
7 constitute a compelling reason for purposes of this subdivision.
8 Only upon that determination may the court order that the child
9 remain in foster care, without holding a hearing pursuant to Section
10 366.26. On and after January 1, 2012, the nonminor dependent's
11 legal status as an adult is in and of itself a compelling reason not
12 to hold a hearing pursuant to Section 366.26.

13 (i) If, as authorized by subdivision (h), the court orders a hearing
14 pursuant to Section 366.26, the court shall direct the agency
15 supervising the child and the licensed county adoption agency, or
16 the State Department of Social Services when it is acting as an
17 adoption agency in counties that are not served by a county
18 adoption agency, to prepare an assessment as provided for in
19 subdivision (i) of Section 366.21 or subdivision (b) of Section
20 366.22. A hearing held pursuant to Section 366.26 shall be held
21 no later than 120 days from the date of the 12-month review at
22 which it is ordered, and at that hearing the court shall determine
23 whether adoption, legal guardianship, or long-term foster care is
24 the most appropriate plan for the child. On and after January 1,
25 2012, a hearing pursuant to Section 366.26 shall not be ordered if
26 the child is a nonminor dependent. The court may order that a
27 nonminor dependent who otherwise is eligible pursuant to Section
28 11403 remain in a planned, permanent living arrangement. At the
29 request of the nonminor dependent who has an established
30 relationship with an adult determined to be the nonminor
31 dependent's permanent connection, the court may order adoption
32 under Section 9300 of the Family Code as the nonminor
33 dependent's permanent plan.

34 (j) The implementation and operation of the amendments to
35 subdivision (c) enacted at the 2005-06 Regular Session shall be
36 subject to appropriation through the budget process and by phase,
37 as provided in Section 366.35.

38 (k) The reviews conducted pursuant to subdivision (a) or (d)
39 may be conducted earlier than every six months if the court

1 determines that an earlier review is in the best interests of the child
2 or as court rules prescribe.

3 ~~(f) This section shall become operative on January 1, 2014.~~

4 SEC. 25. Section 366.3 of the Welfare and Institutions Code
5 is amended to read:

6 366.3. (a) If a juvenile court orders a permanent plan of
7 adoption, tribal customary adoption, *adoption of a nonminor*
8 *dependent pursuant to subdivision (f) of Section 366.31*, or legal
9 guardianship pursuant to Section 360 or 366.26, the court shall
10 retain jurisdiction over the child *or nonminor dependent* until the
11 child *or nonminor dependent* is adopted or the legal guardianship
12 is established, except as provided for in Section 366.29 or, on and
13 after January 1, 2012, Section ~~366.31~~ 366.32. The status of the
14 child *or nonminor dependent* shall be reviewed every six months
15 to ensure that the adoption or legal guardianship is completed as
16 expeditiously as possible. When the adoption of the child *or*
17 *nonminor dependent* has been granted, or in the case of a tribal
18 customary adoption, when the tribal customary adoption order has
19 been afforded full faith and credit and the petition for adoption
20 has been granted, the court shall terminate its jurisdiction over the
21 child *or nonminor dependent*. Following establishment of a legal
22 guardianship, the court may continue jurisdiction over the child
23 as a dependent child of the juvenile court or may terminate its
24 dependency jurisdiction and retain jurisdiction over the child as a
25 ward of the legal guardianship, as authorized by Section 366.4. If,
26 however, a relative of the child is appointed the legal guardian of
27 the child and the child has been placed with the relative for at least
28 six months, the court shall, except if the relative guardian objects,
29 or upon a finding of exceptional circumstances, terminate its
30 dependency jurisdiction and retain jurisdiction over the child as a
31 ward of the guardianship, as authorized by Section 366.4.
32 Following a termination of parental rights, the parent or parents
33 shall not be a party to, or receive notice of, any subsequent
34 proceedings regarding the child.

35 (b) If the court has dismissed dependency jurisdiction following
36 the establishment of a legal guardianship, or no dependency
37 jurisdiction attached because of the granting of a legal guardianship
38 pursuant to Section 360, and the legal guardianship is subsequently
39 revoked or otherwise terminated, the county department of social
40 services or welfare department shall notify the juvenile court of

1 this fact. The court may vacate its previous order dismissing
2 dependency jurisdiction over the child.

3 Notwithstanding Section 1601 of the Probate Code, the
4 proceedings to terminate a legal guardianship that has been granted
5 pursuant to Section 360 or 366.26 shall be held either in the
6 juvenile court that retains jurisdiction over the guardianship as
7 authorized by Section 366.4 or the juvenile court in the county
8 where the guardian and child currently reside, based on the best
9 interests of the child, unless the termination is due to the
10 emancipation or adoption of the child. The juvenile court having
11 jurisdiction over the guardianship shall receive notice from the
12 court in which the petition is filed within five calendar days of the
13 filing. Prior to the hearing on a petition to terminate legal
14 guardianship pursuant to this subdivision, the court shall order the
15 county department of social services or welfare department having
16 jurisdiction or jointly with the county department where the
17 guardian and child currently reside to prepare a report, for the
18 court's consideration, that shall include an evaluation of whether
19 the child could safely remain in, or be returned to, the legal
20 guardian's home, without terminating the legal guardianship, if
21 services were provided to the child or legal guardian. If applicable,
22 the report shall also identify recommended family maintenance or
23 reunification services to maintain the legal guardianship and set
24 forth a plan for providing those services. If the petition to terminate
25 legal guardianship is granted, either juvenile court may resume
26 dependency jurisdiction over the child, and may order the county
27 department of social services or welfare department to develop a
28 new permanent plan, which shall be presented to the court within
29 60 days of the termination. If no dependency jurisdiction has
30 attached, the social worker shall make any investigation he or she
31 deems necessary to determine whether the child may be within the
32 jurisdiction of the juvenile court, as provided in Section 328.

33 Unless the parental rights of the child's parent or parents have
34 been terminated, they shall be notified that the legal guardianship
35 has been revoked or terminated and shall be entitled to participate
36 in the new permanency planning hearing. The court shall try to
37 place the child in another permanent placement. At the hearing,
38 the parents may be considered as custodians but the child shall not
39 be returned to the parent or parents unless they prove, by a
40 preponderance of the evidence, that reunification is the best

1 alternative for the child. The court may, if it is in the best interests
2 of the child, order that reunification services again be provided to
3 the parent or parents.

4 (c) If, following the establishment of a legal guardianship, the
5 county welfare department becomes aware of changed
6 circumstances that indicate adoption or, for an Indian child, tribal
7 customary adoption, may be an appropriate plan for the child, the
8 department shall so notify the court. The court may vacate its
9 previous order dismissing dependency jurisdiction over the child
10 and order that a hearing be held pursuant to Section 366.26 to
11 determine whether adoption or continued legal guardianship is the
12 most appropriate plan for the child. The hearing shall be held no
13 later than 120 days from the date of the order. If the court orders
14 that a hearing shall be held pursuant to Section 366.26, the court
15 shall direct the agency supervising the child and the county
16 adoption agency, or the State Department of Social Services if it
17 is acting as an adoption agency, to prepare an assessment under
18 subdivision (b) of Section 366.22.

19 (d) If the child or, on and after January 1, 2012, nonminor
20 dependent is in a placement other than the home of a legal guardian
21 and jurisdiction has not been dismissed, the status of the child shall
22 be reviewed at least every six months. The review of the status of
23 a child for whom the court has ordered parental rights terminated
24 and who has been ordered placed for adoption shall be conducted
25 by the court. The review of the status of a child or, on and after
26 January 1, 2012, nonminor dependent for whom the court has not
27 ordered parental rights terminated and who has not been ordered
28 placed for adoption may be conducted by the court or an
29 appropriate local agency. The court shall conduct the review under
30 the following circumstances:

31 (1) Upon the request of the child's parents or legal guardians.

32 (2) Upon the request of the child or, on and after January 1,
33 2012, nonminor dependent.

34 (3) It has been 12 months since a hearing held pursuant to
35 Section 366.26 or an order that the child remain in long-term foster
36 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
37 subdivision (h).

38 (4) It has been 12 months since a review was conducted by the
39 court.

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 (e) Except as provided in subdivision (g), at the review held
5 every six months pursuant to subdivision (d), the reviewing body
6 shall inquire about the progress being made to provide a permanent
7 home for the child, shall consider the safety of the child, and shall
8 determine all of the following:

9 (1) The continuing necessity for, and appropriateness of, the
10 placement.

11 (2) Identification of individuals other than the child's siblings
12 who are important to a child who is 10 years of age or older and
13 has been in out-of-home placement for six months or longer, and
14 actions necessary to maintain the child's relationship with those
15 individuals, provided that those relationships are in the best interest
16 of the child. The social worker shall ask every child who is 10
17 years of age or older and who has been in out-of-home placement
18 for six months or longer to identify individuals other than the
19 child's siblings who are important to the child, and may ask any
20 other child to provide that information, as appropriate. The social
21 worker shall make efforts to identify other individuals who are
22 important to the child, consistent with the child's best interests.

23 (3) The continuing appropriateness and extent of compliance
24 with the permanent plan for the child, including efforts to maintain
25 relationships between a child who is 10 years of age or older and
26 who has been in out-of-home placement for six months or longer
27 and individuals who are important to the child and efforts to
28 identify a prospective adoptive parent or legal guardian, including,
29 but not limited to, child-specific recruitment efforts and listing on
30 an adoption exchange.

31 (4) The extent of the agency's compliance with the child welfare
32 services case plan in making reasonable efforts either to return the
33 child to the safe home of the parent or to complete whatever steps
34 are necessary to finalize the permanent placement of the child. If
35 the reviewing body determines that a second period of reunification
36 services is in the child's best interests, and that there is a significant
37 likelihood of the child's return to a safe home due to changed
38 circumstances of the parent, pursuant to subdivision (f), the specific
39 reunification services required to effect the child's return to a safe
40 home shall be described.

1 (5) Whether there should be any limitation on the right of the
2 parent or guardian to make educational decisions *or developmental*
3 *services decisions* for the child. That limitation shall be specifically
4 addressed in the court order and may not exceed what is necessary
5 to protect the child. If the court specifically limits the right of the
6 parent or guardian to make educational decisions *or developmental*
7 *services decisions* for the child, the court shall at the same time
8 appoint a responsible adult to make educational decisions *or*
9 *developmental services decisions* for the child pursuant to Section
10 361.

11 (6) The adequacy of services provided to the child. The court
12 shall consider the progress in providing the information and
13 documents to the child, as described in Section 391. The court
14 shall also consider the need for, and progress in providing, the
15 assistance and services described in Section 391.

16 (7) The extent of progress the parents or legal guardians have
17 made toward alleviating or mitigating the causes necessitating
18 placement in foster care.

19 (8) The likely date by which the child may be returned to, and
20 safely maintained in, the home, placed for adoption, legal
21 guardianship, in another planned permanent living arrangement,
22 or, for an Indian child, in consultation with the child's tribe, placed
23 for tribal customary adoption.

24 (9) Whether the child has any siblings under the court's
25 jurisdiction, and, if any siblings exist, all of the following:

26 (A) The nature of the relationship between the child and his or
27 her siblings.

28 (B) The appropriateness of developing or maintaining the sibling
29 relationships pursuant to Section 16002.

30 (C) If the siblings are not placed together in the same home,
31 why the siblings are not placed together and what efforts are being
32 made to place the siblings together, or why those efforts are not
33 appropriate.

34 (D) If the siblings are not placed together, the frequency and
35 nature of the visits between siblings.

36 (E) The impact of the sibling relationships on the child's
37 placement and planning for legal permanence.

38 The factors the court may consider as indicators of the nature of
39 the child's sibling relationships include, but are not limited to,
40 whether the siblings were raised together in the same home,

1 whether the siblings have shared significant common experiences
2 or have existing close and strong bonds, whether either sibling
3 expresses a desire to visit or live with his or her sibling, as
4 applicable, and whether ongoing contact is in the child's best
5 emotional interests.

6 (10) For a child who is 16 years of age or older, and, effective
7 January 1, 2012, for a nonminor dependent, the services needed
8 to assist the child or nonminor dependent to make the transition
9 from foster care to independent living.

10 The reviewing body shall determine whether or not reasonable
11 efforts to make and finalize a permanent placement for the child
12 have been made.

13 Each licensed foster family agency shall submit reports for each
14 child in its care, custody, and control to the court concerning the
15 continuing appropriateness and extent of compliance with the
16 child's permanent plan, the extent of compliance with the case
17 plan, and the type and adequacy of services provided to the child.

18 (f) Unless their parental rights have been permanently
19 terminated, the parent or parents of the child are entitled to receive
20 notice of, and participate in, those hearings. It shall be presumed
21 that continued care is in the best interests of the child, unless the
22 parent or parents prove, by a preponderance of the evidence, that
23 further efforts at reunification are the best alternative for the child.
24 In those cases, the court may order that further reunification
25 services to return the child to a safe home environment be provided
26 to the parent or parents up to a period of six months, and family
27 maintenance services, as needed for an additional six months in
28 order to return the child to a safe home environment. On and after
29 January 1, 2012, this subdivision shall not apply to the parents of
30 a nonminor dependent.

31 (g) At the review conducted by the court and held at least every
32 six months, regarding a child for whom the court has ordered
33 parental rights terminated and who has been ordered placed for
34 adoption, or, for an Indian child for whom parental rights are not
35 being terminated and a tribal customary adoption is being
36 considered, the county welfare department shall prepare and present
37 to the court a report describing the following:

38 (1) The child's present placement.

39 (2) The child's current physical, mental, emotional, and
40 educational status.

(3) If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10 years of age or older to identify any individuals who are important to him or her, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

(4) Whether the child has been placed with a prospective adoptive parent or parents.

(5) Whether an adoptive placement agreement has been signed and filed.

(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

(8) The progress of the search for an adoptive placement if one has not been identified.

(9) Any impediments to the adoption or the adoptive placement.

(10) The anticipated date by which the child will be adopted or placed in an adoptive home.

(11) The anticipated date by which an adoptive placement agreement will be signed.

(12) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(h) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency

1 planning options for the child including whether the child should
 2 be returned to the home of the parent, placed for adoption, or, for
 3 an Indian child, in consultation with the child's tribe, placed for
 4 tribal customary adoption, or appointed a legal guardian, or, if
 5 compelling reasons exist for finding that none of the foregoing
 6 options are in the best interest of the child, whether the child should
 7 be placed in another planned permanent living arrangement. The
 8 court shall order that a hearing be held pursuant to Section 366.26,
 9 unless it determines by clear and convincing evidence that there
 10 is a compelling reason for determining that a hearing held pursuant
 11 to Section 366.26 is not in the best interest of the child because
 12 the child is being returned to the home of the parent, the child is
 13 not a proper subject for adoption, or no one is willing to accept
 14 legal guardianship. If the county adoption agency, or the
 15 department when it is acting as an adoption agency, has determined
 16 it is unlikely that the child will be adopted or one of the conditions
 17 described in paragraph (1) of subdivision (c) of Section 366.26
 18 applies, that fact shall constitute a compelling reason for purposes
 19 of this subdivision. Only upon that determination may the court
 20 order that the child remain in long-term foster care, without holding
 21 a hearing pursuant to Section 366.26. On and after January 1, 2012,
 22 the nonminor dependent's legal status as an adult is in and of itself
 23 a compelling reason not to hold a hearing pursuant to Section
 24 366.26.

25 (i) If, as authorized by subdivision (h), the court orders a hearing
 26 pursuant to Section 366.26, the court shall direct the agency
 27 supervising the child and the county adoption agency, or the State
 28 Department of Social Services when it is acting as an adoption
 29 agency, to prepare an assessment as provided for in subdivision
 30 (i) of Section 366.21 or subdivision (b) of Section 366.22. A
 31 hearing held pursuant to Section 366.26 shall be held no later than
 32 120 days from the date of the 12-month review at which it is
 33 ordered, and at that hearing the court shall determine whether
 34 adoption, tribal customary adoption, legal guardianship, or
 35 long-term foster care is the most appropriate plan for the child. On
 36 and after January 1, 2012, a hearing pursuant to Section 366.26
 37 shall not be ordered if the child is a nonminor dependent, *unless*
 38 *the nonminor dependent is an Indian child and tribal customary*
 39 *adoption is recommended as the permanent plan.* The court may
 40 order that a nonminor dependent who otherwise is eligible pursuant

1 to Section 11403 remain in a planned, permanent living
2 arrangement. *At the request of the nonminor dependent who has*
3 *an established relationship with an adult determined to be the*
4 *nonminor dependent's permanent connection, the court may order*
5 *adoption of the nonminor dependent pursuant to subdivision (f)*
6 *of Section 366.31.*

7 (j) The implementation and operation of the amendments to
8 subdivision (e) enacted at the 2005–06 Regular Session shall be
9 subject to appropriation through the budget process and by phase,
10 as provided in Section 366.35.

11 (k) The reviews conducted pursuant to subdivision (a) or (d)
12 may be conducted earlier than every six months if the court
13 determines that an earlier review is in the best interests of the child
14 or as court rules prescribe.

15 ~~(l) On and after January 1, 2012, at the review hearing that~~
16 ~~occurs in the six-month period prior to the minor's attaining 18~~
17 ~~years of age, and at every subsequent review hearing for the~~
18 ~~nonminor dependent, the report shall describe all of the following:~~

19 ~~(1) The minor's or nonminor dependent's plans to remain in~~
20 ~~foster care and plans to meet one or more of the criteria as~~
21 ~~described in subdivision (b) of Section 11403 to continue to receive~~
22 ~~AFDC-FC benefits.~~

23 ~~(2) The efforts made and assistance provided to the minor or~~
24 ~~nonminor dependent by the social worker or the probation officer~~
25 ~~so that the minor or nonminor dependent will be able to meet the~~
26 ~~criteria.~~

27 ~~(3) Efforts toward completing the items described in paragraph~~
28 ~~(2) of subdivision (e) of Section 391.~~

29 ~~(m) On and after January 1, 2012, the reviews conducted~~
30 ~~pursuant to subdivisions (e) and (h) for any nonminor dependent~~
31 ~~shall be conducted in a manner that respects the nonminor's status~~
32 ~~as a legal adult, be focused on the goals and services described in~~
33 ~~the youth's transitional independent living case plan, including~~
34 ~~efforts made to achieve permanence, including maintaining or~~
35 ~~obtaining permanent connections with caring and committed adults,~~
36 ~~and attended as appropriate by additional participants invited by~~
37 ~~the nonminor dependent. The review shall include all the issues~~
38 ~~in subdivision (e), except paragraph (5) of subdivision (e). The~~
39 ~~county child welfare or probation department, or Indian tribe that~~
40 ~~has entered into an agreement pursuant to Section 10553.1 shall~~

1 prepare and present to the reviewing body a report that addresses
2 the youth's progress in meeting the goals in the transitional
3 independent living case plan and propose modifications as
4 necessary to further those goals. The report shall document that
5 the nonminor has received all the information and documentation
6 described in paragraph (2) of subdivision (c) of Section 391. If the
7 court is considering terminating dependency jurisdiction for a
8 nonminor dependent it shall first hold a hearing pursuant to Section
9 391.

10 (n) On and after January 1, 2012, if a review hearing pursuant
11 to this section is the last review hearing to be held before the child
12 attains 18 years of age, the court shall ensure all of the following:

13 (1) That the child's transitional independent living case plan
14 includes a plan for the child to satisfy one or more of the criteria
15 set forth in subdivision (b) of Section 11403, so that the child is
16 eligible to remain a nonminor dependent.

17 (2) That the child has been informed of his or her right to seek
18 termination of dependency jurisdiction pursuant to Section 391,
19 and understands the potential benefits of continued dependency.

20 (3) That the child is informed of his or her right to have
21 dependency reinstated pursuant to subdivision (c) of Section 388,
22 and understands the potential benefits of continued dependency.

23 ~~SEC. 29.~~

24 ~~SEC. 26.~~ Section 366.31 of the Welfare and Institutions Code
25 is repealed.

26 ~~SEC. 30.~~

27 ~~SEC. 27.~~ Section 366.31 is added to the Welfare and Institutions
28 Code, to read:

29 366.31. (a) If a review hearing is the last review hearing to be
30 held before the minor attains 18 years of age, the court shall ensure
31 all of the following:

32 (1) The minor's case plan includes a plan for the minor to satisfy
33 one or more of the participation conditions described in
34 subparagraphs (A) to (E), inclusive, of paragraph (3) paragraphs
35 (1) to (5), inclusive, of subdivision (b) of Section 11403, so that
36 the minor is eligible to remain in foster care as a nonminor
37 dependent.

38 (2) The minor has been informed of his or her right to seek
39 termination of dependency jurisdiction pursuant to Section 391,
40 and understands the potential benefits of continued dependency.

(3) The minor is informed of his or her right to have dependency reinstated pursuant to subdivision (e) of Section 388, and understands the potential benefits of continued dependency.

(b) At the review hearing that occurs in the six-month period prior to the minor's attaining 18 years of age, and at every subsequent review hearing for the nonminor dependent, as described in subdivision (v) of Section 11400, the report shall describe all of the following:

(1) The minor's and nonminor's plans to remain in foster care and plans to meet one or more of the participation conditions as described in subparagraphs (A) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 11403 to continue to receive AFDC-FC benefits as a nonminor dependent.

(2) The efforts made and assistance provided to the minor and nonminor by the social worker or the probation officer so that the minor and nonminor will be able to meet the participation conditions.

(3) Efforts toward completing the items described in paragraph (2) of subdivision (e) of Section 391.

(c) The reviews conducted pursuant to this section for any nonminor dependent shall be conducted in a manner that respects the nonminor's status as a legal adult, focused on the goals and services described in the youth's transitional independent living case plan, as described in subdivision (y) of Section 11400, including efforts made to maintain connections with caring and permanently committed adults, and attended, as appropriate, by additional participants invited by the nonminor dependent.

(d) For a nonminor dependent whose case plan is continued court-ordered family reunification services pursuant to Section 361.6, the court shall consider whether the nonminor dependent may safely reside in the home of the parent or guardian. If the nonminor cannot reside safely in the home of the parent or guardian, or, if it is not in the nonminor dependent's best interest to reside in the home of the parent or guardian, the court must consider whether to continue or terminate reunification services for the parent or legal guardian.

(1) The review report shall include *a discussion of* all of the following:

(A) ~~A determination of whether~~ *Whether* foster care placement continues to be necessary and appropriate.

1 (B) The likely date by which the nonminor dependent may reside
2 safely in the home of the parent or guardian or will achieve
3 independence.

4 (C) ~~A determination of whether~~ *Whether* the parent or guardian
5 and nonminor dependent were actively involved in the development
6 of the case plan.

7 (D) ~~A determination of whether~~ *Whether* the social worker or
8 probation officer has provided reasonable services designed to aid
9 the parent or guardian to overcome the problems that led to the
10 initial removal of the nonminor dependent.

11 (E) ~~A description of the~~ *The* extent of progress the parents or
12 guardian have made toward alleviating or mitigating the cases
13 necessitating placement in foster care.

14 (F) ~~A determination of whether~~ *Whether* the nonminor dependent
15 and parent, parents, or guardian are in agreement with the
16 continuation of reunification services.

17 (G) ~~A determination of whether~~ *Whether* continued reunification
18 services are in the best interest of the nonminor dependent.

19 (H) A determination of whether there is a substantial probability
20 that the nonminor dependent will be able to safely reside in the
21 home of the parent or guardian by the next review hearing date.

22 (I) ~~A description of the~~ *The* efforts to maintain the nonminor's
23 connections with caring and permanently committed adults.

24 (J) ~~A description of the~~ *The* agency's compliance with the
25 nonminor dependent's Transitional Independent Living Case Plan,
26 including efforts to finalize the nonminor's permanent plan and
27 prepare the nonminor dependent for independence.

28 (K) ~~A description of the~~ *The* progress in providing the
29 information and documents to the nonminor dependent as described
30 in Section 391.

31 (2) The court shall inquire about the progress being made to
32 provide a permanent home for the nonminor, shall consider the
33 safety of the nonminor dependent, and shall determine all of the
34 following:

35 (A) The continuing necessity for, and appropriateness of, the
36 placement.

37 (B) Whether the agency has made reasonable efforts to maintain
38 relationships between the nonminor dependent and individuals
39 who are important to the nonminor dependent.

1 (C) The extent of the agency's compliance with the case plan
2 in making reasonable efforts, or, in the case of an Indian child,
3 active efforts as described in Section 361.7, to create a safe home
4 of the parent or guardian for the nonminor to reside in or to
5 complete whatever steps are necessary to finalize the permanent
6 placement of the nonminor dependent.

7 (D) The extent of the agency's compliance with the nonminor
8 dependent's Transitional Independent Living Case Plan, including
9 efforts to finalize the youth's permanent plan and prepare the
10 nonminor dependent for independence.

11 (E) The adequacy of services provided to the parent or guardian
12 and to the nonminor dependent. The court shall consider the
13 progress in providing the information and documents to the
14 nonminor dependent as described in Section 391. The court shall
15 also consider the need for, and progress in providing, the assistance
16 and services described in Section 391.

17 (F) The extent of progress the parents or legal guardians have
18 made toward alleviating or mitigating the causes necessitating
19 placement in foster care.

20 (G) The likely date by which the nonminor dependent may
21 safely reside in the home of the parent or guardian or, if the court
22 is terminating reunification services, the likely date by which it is
23 anticipated the nonminor dependent will achieve independence,
24 or, for an Indian child, in consultation with the child's tribe, placed
25 for tribal customary adoption.

26 (H) Whether the agency has made reasonable efforts as required
27 in subparagraph (D) of paragraph (1) of subdivision (a) of Section
28 366 to establish or maintain the nonminor dependent's relationship
29 with his or her siblings who are under the juvenile court's
30 jurisdiction.

31 (I) The services needed to assist the nonminor dependent to
32 make the transition from foster care to independent living.

33 (J) Whether or not reasonable efforts to make and finalize a
34 permanent placement for the nonminor have been made.

35 (e) For a nonminor dependent who is no longer receiving
36 court-ordered family reunification services and is in a permanent
37 plan of planned permanent living arrangement, at the review
38 hearing held every six months pursuant to subdivision (d) of
39 Section 366.3, the reviewing body shall inquire about the progress
40 being made to provide permanent connections with caring,

1 committed adults for the nonminor dependent, shall consider the
2 safety of the nonminor, shall consider the Transitional Independent
3 Living Case Plan, and shall determine all of the following:

4 (1) The continuing necessity for, and appropriateness of, the
5 placement.

6 (2) The continuing appropriateness and extent of compliance
7 with the permanent plan for the nonminor dependent, including
8 efforts to *identify and* maintain relationships with individuals who
9 are important to the nonminor dependent.

10 (3) The extent of the agency's compliance with the nonminor
11 dependent's Transitional Independent Living Case Plan, including
12 ~~efforts to whether or not reasonable efforts have been made to~~
13 ~~make and~~ finalize the youth's permanent plan and prepare the
14 nonminor dependent for independence.

15 (4) *Whether a prospective adoptive parent has been identified*
16 *and assessed as appropriate for the nonminor dependent's adoption*
17 *under this section, whether the prospective adoptive parent has*
18 *been informed about the terms of the written negotiated adoption*
19 *assistance agreement pursuant to Section 16120, and whether*
20 *adoption should be ordered as the nonminor dependent's*
21 *permanent plan.*

22 (5) *For the nonminor dependent who is an Indian child, whether,*
23 *in consultation with the nonminor's tribe, the nonminor should be*
24 *placed for tribal customary adoption.*

25 ~~(4)~~

26 (6) The adequacy of services provided to the nonminor
27 dependent. The court shall consider the progress in providing the
28 information and documents to the nonminor dependent as described
29 in Section 391. The court shall also consider the need for, and
30 progress in providing, the assistance and services described in
31 Section 391.

32 ~~(5)~~

33 (7) The likely date by which it is anticipated the nonminor
34 dependent will achieve *adoption or* independence.

35 ~~(6)~~

36 (8) Whether the agency has made reasonable efforts as required
37 in subparagraph (D) of paragraph (1) of subdivision (a) of Section
38 366 to establish or maintain the nonminor dependent's relationship
39 with his or her siblings who are under the juvenile court's
40 jurisdiction.

~~(7) Whether the agency has made reasonable efforts as required in subparagraph (D) of paragraph (1) of subdivision (a) of Section 366 to establish or maintain the nonminor dependent's relationship with his or her siblings who are under the juvenile court's jurisdiction.~~

~~(8)~~

(9) The services needed to assist the nonminor dependent to make the transition from foster care to independent living.

(f) If nonminor dependent adoption is ordered as nonminor dependent's permanent plan, a hearing shall be held pursuant to subdivision (g) within 60 days. When the court orders a hearing pursuant to subdivision (g), it shall direct the agency to prepare a report pursuant to paragraph (5) of subdivision (g).

(g) (1) At a hearing to consider a permanent plan of adoption for a nonminor dependent, the court shall read and consider the report in paragraph (5) and receive other evidence that the parties may present. A copy of the executed negotiated agreement shall be attached to the report. If the court finds pursuant to this section that nonminor dependent adoption is the appropriate permanent plan, it shall make findings and orders to do the following:

(A) Approve the adoption agreement and declare the nonminor dependent is the adopted child of the adoptive parent, and that the nonminor dependent and adoptive parents agree to assume toward each other the legal relationship of parents and child and to have all of the rights and be subject to all of the duties and responsibilities of that relationship.

(B) Declare that the birth parents of the nonminor dependent are, from the time of the adoption, relieved of all parental duties toward, and responsibility for, the adopted nonminor dependent and have no rights over the adopted nonminor dependent.

(2) If the court finds that the nonminor dependent and the prospective adoptive parent have mutually consented to the adoption, the court may enter the adoption order after it determines all of the following:

(A) Whether the notice was given as required by law.

(B) Whether the nonminor dependent and prospective adoptive parent are present for the hearing.

(C) Whether the court has read and considered the assessment prepared by the social worker or probation officer.

1 (D) Whether the court considered the wishes of the nonminor
2 dependent.

3 (E) If the nonminor dependent is eligible, the prospective
4 adoptive parent has signed the negotiated adoption assistance
5 agreement pursuant to subdivision (g) of Section 16120.

6 (F) Whether the adoption is in the best interest of the nonminor
7 dependent.

8 (3) If the court orders the establishment of the nonminor
9 dependent adoption, it shall dismiss dependency or transitional
10 jurisdiction.

11 (4) If the court does not order the establishment of the nonminor
12 dependent adoption, the nonminor dependent shall remain in a
13 planned permanent living arrangement subject to periodic review
14 of the juvenile court pursuant to this section.

15 (5) At least 10 calendar days before the hearing, the social
16 worker or probation officer shall file a report with the court and
17 provide a copy of the report to all parties. The report shall describe
18 the following:

19 (A) Whether or not the nonminor dependent has any
20 developmental disability and whether the proposed adoptive parent
21 is suitable to meet the needs of the nonminor dependent.

22 (B) The length and nature of the relationship between the
23 prospective adoptive parent and the nonminor dependent, including
24 whether the prospective adoptive parent has been determined to
25 have been established as the nonminor's permanent connection.

26 (C) Whether the nonminor dependent has been determined to
27 be eligible for the adoption assistance program, and if so, whether
28 the prospective adoptive parent has signed the negotiated adoption
29 assistance agreement pursuant to subdivision (g) of Section 16120.

30 (D) Whether a copy of the executed negotiated agreement is
31 attached to the report.

32 (E) Whether criminal background clearances were completed
33 for the prospective adoptive parent as required by Section
34 671(a)(2)(A) and (c) of Title 42 of the United States Code.

35 (F) Whether the prospective adoptive parent who is married
36 and not legally separated from that spouse has the consent of the
37 spouse, provided that the spouse is capable of giving that consent.

38 (G) Whether the adoption of the nonminor dependent is in the
39 best interests of the nonminor dependent and the prospective
40 adoptive parent.

1 (H) Whether the nonminor dependent and the prospective
2 adoptive parent have mutually consented to the adoption.

3 (6) The social worker or probation officer shall serve written
4 notice of the hearing in the manner and to the persons set forth in
5 Section 295, including the prospective adoptive parent or parents,
6 except that notice to the nonminor's birth parents is not required

7 (7) Nothing in this section shall prevent a nonminor dependent
8 from filing an adoption petition pursuant to Section 9300 of the
9 Family Code.

10 ~~(f)~~

11 (h) Each licensed foster family agency shall submit reports for
12 each nonminor dependent in its care to the court concerning the
13 continuing appropriateness and extent of compliance with the
14 nonminor dependent's permanent plan, the extent of compliance
15 with the Transitional Independent Living Case Plan, and the type
16 and adequacy of services provided to the nonminor dependent.
17 The report shall document that the nonminor has received all the
18 information and documentation described in paragraph (2) of
19 subdivision (e) of Section 391. If the court is considering
20 terminating dependency jurisdiction for a nonminor dependent it
21 shall first hold a hearing pursuant to Section 391.

22 ~~SEC. 31.~~

23 ~~SEC. 28.~~ Section 366.32 is added to the Welfare and Institutions
24 Code, to read:

25 366.32. (a) With respect to a nonminor dependent, as defined
26 in subdivision (v) of Section 11400, who has a permanent plan of
27 long-term foster care that was ordered pursuant to Section 366.21,
28 366.22, 366.25, or 366.26, the court may continue jurisdiction of
29 the nonminor as a nonminor dependent of the juvenile court or
30 may dismiss dependency jurisdiction pursuant to Section 391.

31 (b) If the court continues dependency jurisdiction of the
32 nonminor as a nonminor dependent of the juvenile court, the court
33 shall order the development of a planned permanent living
34 arrangement of a placement under a mutual agreement, as described
35 in subdivision (u) of Section 11400, which may include continued
36 placement with the current caregiver or another licensed or
37 approved caregiver or in a supervised independent living setting
38 placement, as defined in subdivision (w) of Section 11400,
39 consistent with the youth's Transitional Independent Living Case
40 Plan. At the request of the nonminor dependent who has an

1 established relationship with an adult determined to be the
2 nonminor dependent's permanent connection, the court may order
3 ~~adoption under Section 9300 of the Family Code nonminor~~
4 ~~dependent adoption pursuant to subdivision (g) of Section 366.31~~
5 as the nonminor dependent's permanent plan.

6 (c) If the court terminates its dependency jurisdiction over a
7 nonminor dependent pursuant to subdivision (a), it shall retain
8 general jurisdiction over the youth pursuant to Section 303. If the
9 court has dismissed dependency jurisdiction pursuant to subdivision
10 (d) of Section 391, the nonminor, who has not attained 21 years
11 of age, may subsequently file a petition pursuant to subdivision
12 (e) of Section 388 to have dependency jurisdiction resumed and
13 the court may vacate its previous order dismissing dependency
14 jurisdiction over the nonminor dependent.

15 ~~SEC. 32.~~

16 *SEC. 29.* Section 369.5 of the Welfare and Institutions Code
17 is amended to read:

18 369.5. (a) If a child is adjudged a dependent child of the court
19 under Section 300 and the child has been removed from the
20 physical custody of the parent under Section 361, only a juvenile
21 court judicial officer shall have authority to make orders regarding
22 the administration of psychotropic medications for that child. The
23 juvenile court may issue a specific order delegating this authority
24 to a parent upon making findings on the record that the parent
25 poses no danger to the child and has the capacity to authorize
26 psychotropic medications. Court authorization for the
27 administration of psychotropic medication shall be based on a
28 request from a physician, indicating the reasons for the request, a
29 description of the child's diagnosis and behavior, the expected
30 results of the medication, and a description of any side effects of
31 the medication. On or before July 1, 2000, the Judicial Council
32 shall adopt rules of court and develop appropriate forms for
33 implementation of this section.

34 (b) (1) In counties in which the county child welfare agency
35 completes the request for authorization for the administration of
36 psychotropic medication, the agency is encouraged to complete
37 the request within three business days of receipt from the physician
38 of the information necessary to fully complete the request.

39 (2) Nothing in this subdivision is intended to change current
40 local practice or local court rules with respect to the preparation

1 and submission of requests for authorization for the administration
2 of psychotropic medication.

3 (c) Within seven court days from receipt by the court of a
4 completed request, the juvenile court judicial officer shall either
5 approve or deny in writing a request for authorization for the
6 administration of psychotropic medication to the child, or shall,
7 upon a request by the parent, the legal guardian, or the child's
8 attorney, or upon its own motion, set the matter for hearing.

9 (d) Psychotropic medication or psychotropic drugs are those
10 medications administered for the purpose of affecting the central
11 nervous system to treat psychiatric disorders or illnesses. These
12 medications include, but are not limited to, anxiolytic agents,
13 antidepressants, mood stabilizers, antipsychotic medications,
14 anti-Parkinson agents, hypnotics, medications for dementia, and
15 psychostimulants.

16 (e) Nothing in this section is intended to supersede local court
17 rules regarding a minor's right to participate in mental health
18 decisions.

19 (f) This section shall not apply to nonminor dependents, as
20 defined in subdivision (v) of Section 11400.

21 ~~SEC. 33.~~

22 *SEC. 30.* Section 375 of the Welfare and Institutions Code is
23 amended to read:

24 375. (a) Whenever a petition is filed in the juvenile court of
25 a county other than the residence of the person named in the
26 petition, or whenever, subsequent to the filing of a petition in the
27 juvenile court of the county where that minor resides, the residence
28 of the person who would be legally entitled to the custody of the
29 minor were it not for the existence of a court order issued pursuant
30 to this chapter is changed to another county, the entire case may
31 be transferred to the juvenile court of the county where that person
32 then resides at any time after the court has made a finding of the
33 facts upon which it has exercised its jurisdiction over the minor,
34 and the juvenile court of the county where that person then resides
35 shall take jurisdiction of the case upon the receipt and filing of the
36 finding of the facts upon which the court exercised its jurisdiction
37 and an order transferring the case.

38 (b) (1) Whenever a minor under the dependency jurisdiction
39 or transition jurisdiction of the juvenile court attains 18 years of
40 age and remains under the court's jurisdiction as a nonminor

dependent, as defined in subdivision (v) of Section 11400, the residence of the nonminor dependent may be changed to another county if the court finds that the nonminor dependent meets the conditions of subdivision (f) of Section 17.1. The entire case may be transferred to the juvenile court of the county where the nonminor dependent then resides at any time after the court has made a finding of the facts upon which the court has exercised its jurisdiction over the nonminor. The juvenile court of the county where a nonminor then resides shall take jurisdiction of the case upon the receipt and filing of that finding and an order transferring the case.

(2) Whenever a petition pursuant to subdivision (e) of Section 388 is submitted in the juvenile court of a county other than the county that retained general jurisdiction under subdivision (b) of Section 303 of the nonminor dependent, as defined in subdivision (v) of Section 11400, the residence of the nonminor dependent may be changed to another county if the nonminor dependent meets the conditions of subdivision (g) of Section 17.1. The entire case may be transferred to the juvenile court of the county where the nonminor dependent then resides at any time after the county that retained general jurisdiction has granted the petition and resumed dependency jurisdiction, or has assumed or resumed transition jurisdiction. The juvenile court of the county where the nonminor then resides shall take jurisdiction of the case upon the receipt and filing of the finding of the facts upon which the court exercised its jurisdiction over the nonminor and an order transferring the case.

~~SEC. 34.~~

SEC. 31. Section 388 of the Welfare and Institutions Code is amended to read:

388. (a) Any parent or other person having an interest in a child who is a dependent child of the juvenile court *or a nonminor dependent as defined in subdivision (v) of Section 11400*, or the child himself or herself *or the nonminor dependent* through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The

1 petition shall be verified and, if made by a person other than the
2 child *or the nonminor dependent*, shall state the petitioner's
3 relationship to or interest in the child and shall set forth in concise
4 language any change of circumstance or new evidence that is
5 alleged to require the change of order or termination of jurisdiction.

6 (b) Any person, including a child *or the nonminor dependent*
7 who is a dependent of the juvenile court, may petition the court to
8 assert a relationship as a sibling related by blood, adoption, or
9 affinity through a common legal or biological parent to a child
10 who is, or is the subject of a petition for adjudication as, a
11 dependent of the juvenile court, and may request visitation with
12 the dependent child, placement with or near the dependent child,
13 or consideration when determining or implementing a case plan
14 or permanent plan for the dependent child or make any other
15 request for an order which may be shown to be in the best interest
16 of the dependent child. The court may appoint a guardian ad litem
17 to file the petition for the dependent child asserting the sibling
18 relationship if the court determines that the appointment is
19 necessary for the best interests of the dependent child. The petition
20 shall be verified and shall set forth the following:

21 (1) Through which parent he or she is related to the dependent
22 child.

23 (2) Whether he or she is related to the dependent child by blood,
24 adoption, or affinity.

25 (3) The request or order that the petitioner is seeking.

26 (4) Why that request or order is in the best interest of the
27 dependent child.

28 (c) (1) Any party, including a child who is a dependent of the
29 juvenile court, may petition the court, prior to the hearing set
30 pursuant to subdivision (f) of Section 366.21 for a child described
31 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
32 361.5, or prior to the hearing set pursuant to subdivision (e) of
33 Section 366.21 for a child described by subparagraph (B) or (C)
34 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
35 court-ordered reunification services provided under subdivision
36 (a) of Section 361.5 only if one of the following conditions exists:

37 (A) It appears that a change of circumstance or new evidence
38 exists that satisfies a condition set forth in subdivision (b) or (e)
39 of Section 361.5 justifying termination of court-ordered
40 reunification services.

1 (B) The action or inaction of the parent or guardian creates a
2 substantial likelihood that reunification will not occur, including,
3 but not limited to, the parent's or guardian's failure to visit the
4 child, or the failure of the parent or guardian to participate regularly
5 and make substantive progress in a court-ordered treatment plan.

6 (2) In determining whether the parent or guardian has failed to
7 visit the child or participate regularly or make progress in the
8 treatment plan, the court shall consider factors that include, but
9 are not limited to, the parent's or guardian's incarceration,
10 institutionalization, or participation in a court-ordered residential
11 substance abuse treatment program.

12 (3) The court shall terminate reunification services during the
13 above-described time periods only upon a finding by a
14 preponderance of evidence that reasonable services have been
15 offered or provided, and upon a finding of clear and convincing
16 evidence that one of the conditions in subparagraph (A) or (B) of
17 paragraph (1) exists.

18 (4) Any party, including a nonminor dependent, as defined in
19 subdivision (v) of Section 11400, may petition the court prior to
20 the review hearing set pursuant to subdivision (d) of Section 366.31
21 to terminate the continuation of court-ordered family reunification
22 services for a nonminor dependent who has attained 18 years of
23 age. The court shall terminate family reunification services to the
24 parent or guardian if the nonminor dependent or parent or guardian
25 are not in agreement that the continued provision of court-ordered
26 family reunification services is in the best interests of the nonminor
27 dependent.

28 (5) If the court terminates reunification services, it shall order
29 that a hearing pursuant to Section 366.26 be held within 120 days.
30 On and after January 1, 2012, a hearing pursuant to Section 366.26
31 shall not be ordered if the child is a nonminor dependent. The court
32 may order a nonminor dependent who is otherwise eligible to
33 AFDC-FC benefits pursuant to Section 11403 to remain in a
34 planned, permanent living arrangement.

35 (d) If it appears that the best interests of the child *or the*
36 *nonminor dependent* may be promoted by the proposed change of
37 order, recognition of a sibling relationship, termination of
38 jurisdiction, or clear and convincing evidence supports revocation
39 or termination of court-ordered reunification services, the court
40 shall order that a hearing be held and shall give prior notice, or

1 cause prior notice to be given, to the persons and in the manner
2 prescribed by Section 386, and, in those instances in which the
3 manner of giving notice is not prescribed by those sections, then
4 in the manner the court prescribes.

5 (e) (1) On and after January 1, 2012, a nonminor who attained
6 18 years of age while subject to an order for foster care placement
7 and, commencing January 1, 2012, who has not attained 20 years
8 of age, or, commencing January 1, 2014, 21 years of age, for whom
9 the court has dismissed dependency jurisdiction pursuant to Section
10 391, or delinquency jurisdiction pursuant to Section 607.2, or
11 transition jurisdiction pursuant to Section 452, but has retained
12 general jurisdiction under subdivision (b) of Section 303, or the
13 county child welfare services, probation department, or tribal
14 placing agency on behalf of the nonminor, may petition the court
15 in the same action in which the child was found to be a dependent
16 or delinquent child of the juvenile court, for a hearing to resume
17 the dependency jurisdiction over a former dependent or to assume
18 or resume transition jurisdiction over a former delinquent ward
19 pursuant to Section 450. The petition shall be filed within the
20 period that the nonminor is of the age described in this paragraph.
21 If the nonminor has completed the voluntary reentry agreement,
22 as described in subdivision (z) of Section 11400, with the placing
23 agency, the agency shall file the petition on behalf of the nonminor
24 within 15 judicial days of the date the agreement was signed unless
25 the nonminor elects to file the petition at an earlier date.

26 (2) (A) The petition to resume jurisdiction may be filed in the
27 juvenile court that retains general jurisdiction under subdivision
28 (b) of Section 303, or the petition may be submitted to the juvenile
29 court in the county where the youth resides and forwarded to the
30 juvenile court that retained general jurisdiction and filed with that
31 court. The juvenile court having general jurisdiction under Section
32 303 shall receive the petition from the court where the petition
33 was submitted within five court days of its submission, if the
34 petition is filed in the county of residence. The juvenile court that
35 retained general jurisdiction shall order that a hearing be held
36 within 15 judicial days of the date the petition was filed if there is
37 a prima facie showing that the nonminor satisfies the following
38 criteria:

39 (i) He or she was previously under juvenile court jurisdiction,
40 subject to an order for foster care placement when he or she

1 attained 18 years of age, and has not attained the age limits
2 described in paragraph (1).

3 (ii) He or she intends to satisfy at least one of the conditions set
4 forth in subparagraphs (A) to (E), inclusive, of paragraph (3) of
5 subdivision (b) of Section 11403.

6 (iii) He or she wants assistance either in maintaining or securing
7 appropriate supervised placement, or is in need of immediate
8 placement and agrees to supervised placement pursuant to the
9 voluntary reentry agreement as described in subdivision (z) of
10 Section 11400.

11 (B) Upon ordering a hearing, the court shall give prior notice,
12 or cause prior notice to be given, to the persons and by the means
13 prescribed by Section 386, except that notice to parents or former
14 guardians shall not be provided unless the nonminor requests, in
15 writing on the face of the petition, notice to the parents or former
16 guardians.

17 (3) The Judicial Council, by January 1, 2012, shall adopt rules
18 of court to allow for telephonic appearances by nonminor former
19 dependents or delinquents in these proceedings, and for telephonic
20 appearances by nonminor dependents in any proceeding in which
21 the nonminor dependent is a party, and he or she declines to appear
22 and elects a telephonic appearance.

23 (4) Prior to the hearing on a petition to resume dependency
24 jurisdiction or to assume or resume transition jurisdiction, the court
25 shall order the county child welfare or probation department ~~or~~
26 ~~Indian tribe that has entered into an agreement pursuant to Section~~
27 ~~10553.1~~ to prepare a report for the court addressing whether the
28 nonminor intends to satisfy at least one of the criteria set forth in
29 subdivision (b) of Section 11403. When the recommendation is
30 for the nonminor dependent to be placed in a setting where minor
31 dependents also reside, the results of a background check of the
32 petitioning nonminor conducted pursuant to Section 16504.5,
33 ~~maybe~~ *may be* used by the placing agency to determine appropriate
34 placement options for the nonminor. The existence of a criminal
35 conviction is not a bar to eligibility for reentry or resumption of
36 dependency jurisdiction or the assumption or resumption of
37 transition jurisdiction over a nonminor.

38 (5) (A) The court shall resume dependency jurisdiction over a
39 former dependent or assume or resume transition jurisdiction over
40 a former delinquent ward pursuant to Section 450, and order that

1 the nonminor's placement and care be under the responsibility of
2 the county child welfare services department, the probation
3 department, or tribe, if the court finds all of the following:

4 (i) The nonminor was previously under juvenile court
5 jurisdiction subject to an order for foster care placement when he
6 or she attained 18 years of age.

7 (ii) The nonminor has not attained the age limits described in
8 paragraph (1).

9 (iii) Reentry and remaining in foster care are in the nonminor's
10 best interests.

11 (iv) The nonminor intends to satisfy, and agrees to satisfy, at
12 least one of the criteria set forth in subparagraphs (A) to (E),
13 inclusive, of paragraph (3) of subdivision (b) of Section 11403,
14 and demonstrates his or her agreement to placement in a supervised
15 setting under the placement and care responsibility of the placing
16 agency and to satisfy the criteria by signing the voluntary reentry
17 agreement as described in subdivision (z) of Section 11400.

18 (B) In no event shall the court grant a continuance that would
19 cause the hearing to resume dependency jurisdiction or to assume
20 or resume transition jurisdiction to be completed more than 120
21 days after the date the petition was filed.

22 (C) The agency made responsible for the nonminor's placement
23 and care pursuant to subparagraph (A) shall prepare a new
24 transitional independent living case plan within 60 calendar days
25 from the date the nonminor signed the voluntary reentry agreement
26 as described in subdivision (z) of Section 11400 and submit it to
27 the court for the review hearing under Section 366.3, to be held
28 within 70 days of the resumption of dependency jurisdiction or
29 assumption or resumption of transition jurisdiction. In no event
30 shall the review hearing under Section 366.3 be held more than
31 170 calendar days from the date the nonminor signed the voluntary
32 reentry agreement.

33 ~~SEC. 35. Section 450 of the Welfare and Institutions Code is~~
34 ~~amended to read:~~

35 ~~450. (a) A minor or nonminor who satisfies all of the following~~
36 ~~criteria is within the transition jurisdiction of the juvenile court:~~

37 ~~(1) (A) The minor is a ward who is older than 17 years and 5~~
38 ~~months of age and younger than 18 years of age and in foster care~~
39 ~~placement, or the nonminor is a ward in foster care placement who~~
40 ~~was a ward subject to an order for foster care placement on the~~

1 day he or she attained 18 years of age and on and after January 1,
2 2012, has not attained 19 years of age, or, commencing January
3 1, 2013, 20 years of age, or, commencing January 1, 2014, 21 years
4 of age.

5 (B) Notwithstanding subparagraph (A), a nonminor dependent
6 who has been receiving aid pursuant to Article 5 (commencing
7 with Section 11400) of Chapter 2 of Part 3 of Division 9 between
8 January 1, 2012, and December 31, 2012, and who attains 19 years
9 of age prior to January 1, 2013, may continue to receive aid,
10 notwithstanding the age limitations in this paragraph, provided
11 that the nonminor dependent continues to meet all other eligibility
12 requirements.

13 (2) The ward meets either of the following conditions:

14 (A) The ward was removed from the physical custody of his or
15 her parents or legal guardian, adjudged to be a ward of the juvenile
16 court under Section 725, and ordered into foster care placement
17 as a ward.

18 (B) The ward was removed from the custody of his or her
19 parents or legal guardian as a dependent of the court with an order
20 for foster care placement as a dependent in effect at the time the
21 court adjudged him or her to be a ward of the juvenile court under
22 Section 725.

23 (3) The rehabilitative goals of the minor or nonminor, as set
24 forth in the case plan, have been met, and juvenile court jurisdiction
25 over the minor or nonminor as a ward is no longer required.

26 (4) (A) If the ward is a minor, reunification services have been
27 terminated; the matter has not been set for a hearing for termination
28 of parental rights pursuant to Section 727.3 or for the establishment
29 of guardianship pursuant to Section 728; the return of the child to
30 the physical custody of the parents or legal guardian would create
31 a substantial risk of detriment to the child's safety, protection, or
32 physical or emotional well-being; and the minor has indicated an
33 intent to sign a mutual agreement, as described in subdivision (u)
34 of Section 11400, with the responsible agency for placement in a
35 supervised setting as a nonminor dependent.

36 (B) If the ward is a nonminor, he or she has signed a mutual
37 agreement, as described in subdivision (u) of Section 11400, with
38 the responsible agency for placement in a supervised setting as a
39 nonminor dependent or has signed a voluntary reentry agreement,

1 as described in subdivision (z) of Section 11400 for placement in
2 a supervised setting as a nonminor dependent.

3 ~~(b) A minor who is subject to the court's transition jurisdiction~~
4 ~~shall be referred to as a transition dependent.~~

5 ~~(c) A youth subject to the court's transition jurisdiction who is~~
6 ~~18 years of age or older shall be referred to as a nonminor~~
7 ~~dependent.~~

8 ~~SEC. 36.~~

9 *SEC. 32.* Section 727.25 is added to the Welfare and Institutions
10 Code, to read:

11 727.25. (a) Notwithstanding any other law, the court may order
12 family reunification services to continue for a nonminor dependent,
13 as defined in subdivision (v) of Section 11400, if all parties are in
14 agreement that the continued provision of court-ordered family
15 reunification services is in the best interests of the nonminor
16 dependent, and there is a substantial probability that the nonminor
17 dependent will be able to safely reside in the home of the parent
18 or guardian by the next review hearing. The continuation of
19 court-ordered family reunification services shall not exceed the
20 timeframes in Section 727.3.

21 (b) If all parties are not in agreement or the court finds there is
22 not a substantial probability that the nonminor will be able to return
23 and safely reside in the home of the parent or guardian, the court
24 shall terminate reunification services to the parents or guardian.

25 (c) The continuation of court-ordered family reunification
26 services under this section does not affect the nonminor's eligibility
27 for extended foster care benefits as a nonminor dependent as
28 defined in subdivision (v) of Section 11400. The reviews conducted
29 for any nonminor dependent shall be pursuant to Section 366.31.

30 (d) The extension of reunification services only applies to youth
31 under the delinquency jurisdiction of the court.

32 ~~SEC. 37.~~

33 *SEC. 33.* Section 903.4 of the Welfare and Institutions Code
34 is amended to read:

35 903.4. (a) The Legislature finds that even though Section 903
36 establishes parental liability for the cost of the care, support, and
37 maintenance of a child in a county institution or other place in
38 which the child is placed, detained, or committed pursuant to an
39 order of the juvenile court, the collection of child support for
40 juveniles who have been placed in out-of-home care as dependents

1 or wards of the juvenile court under Sections 300, 601, and 602
2 has not been pursued routinely and effectively.

3 It is the purpose of this section to substantially increase income
4 to the state and to counties through court-ordered parental
5 reimbursement for the support of juveniles who are in out-of-home
6 placement. In this regard, the Legislature finds that the costs of
7 collection will be offset by the additional income derived from the
8 increased effectiveness of the parental support program.

9 (b) In any case in which a child is or has been declared a
10 dependent child or a ward of the court pursuant to a Section 300,
11 601, or 602, the juvenile court shall order any agency which has
12 expended moneys or incurred costs on behalf of the child pursuant
13 to a detention or placement order of the juvenile court, to submit
14 to the local child support agency, within 30 days, in the form of a
15 declaration, a statement of its costs and expenses for the benefit,
16 support, and maintenance of the child.

17 (c) (1) The local child support agency may petition the superior
18 court to issue an order to show cause why an order should not be
19 entered for continuing support and reimbursement of the costs of
20 the support of any minor described in Section 903.

21 Any order entered as a result of the order to show cause shall be
22 enforceable in the same manner as any other support order entered
23 by the courts of this state at the time it becomes due and payable.

24 In any case in which the local child support agency has received
25 a declaration of costs or expenses from any agency, the declaration
26 shall be deemed an application for assistance pursuant to Section
27 17400 of the Family Code.

28 (2) The order to show cause shall inform the parent of all of the
29 following facts:

30 (A) He or she has been sued.

31 (B) If he or she wishes to seek the advice of an attorney in this
32 matter, it should be done promptly so that his or her financial
33 declaration and written response, if any, will be filed on time.

34 (C) He or she has a right to appear personally and present
35 evidence in his or her behalf.

36 (D) His or her failure to appear at the order to show cause
37 hearing, personally or through his or her attorney, may result in
38 an order being entered against him or her for the relief requested
39 in the petition.

1 (E) Any order entered could result in the garnishment of wages,
2 taking of money or property to enforce the order, or being held in
3 contempt of court.

4 (F) Any party has a right to request a modification of any order
5 issued by the superior court in the event of a change in
6 circumstances.

7 (3) Any existing support order shall remain in full force and
8 effect unless the superior court modifies that order pursuant to
9 subdivision (f).

10 (4) The local child support agency shall not be required to
11 petition the court for an order for continuing support and
12 reimbursement if, in the opinion of the local child support agency,
13 it would not be appropriate to secure such an order. The local child
14 support agency shall not be required to continue collection efforts
15 for any order if, in the opinion of the local child support agency,
16 it would not be appropriate or cost effective to enforce the order
17 pursuant to Section 17552 of the Family Code.

18 (d) (1) In any case in which an order to show cause has been
19 issued and served upon a parent for continuing support and
20 reimbursement of costs, a completed income and expense
21 declaration shall be filed with the court by the parent; a copy of it
22 shall be delivered to the local child support agency at least five
23 days prior to the hearing on the order to show cause.

24 (2) Any person authorized by law to receive a parent's financial
25 declaration or information obtained therefrom, who knowingly
26 furnishes the declaration or information to a person not authorized
27 by law to receive it, is guilty of a misdemeanor.

28 (e) If a parent has been personally served with the order to show
29 cause and no appearance is made by the parent, or an attorney in
30 his or her behalf, at the hearing on the order to show cause, the
31 court may enter an order for the principal amount and continuing
32 support in the amount demanded in the petition.

33 If the parent appears at the hearing on the order to show cause,
34 the court may enter an order for the amount the court determines
35 the parent is financially able to pay.

36 (f) The court shall have continuing jurisdiction to modify any
37 order for continuing support entered pursuant to this section.

38 (g) As used in this section, "parent" includes any person
39 specified in Section 903, the estate of any such person, and the
40 estate of the minor person. "Parent" does not include a minor or

1 nonminor dependent whose minor child receives aid under Section
2 11401.4.

3 (h) The local child support agency may contract with another
4 county agency for the performance of any of the duties required
5 by this section.

6 ~~SEC. 38.~~

7 *SEC. 34.* Section 903.5 of the Welfare and Institutions Code
8 is amended to read:

9 903.5. In addition to the requirements of Section 903.4, and
10 notwithstanding any other provision of law, the parent or other
11 person legally liable for the support of a minor, who voluntarily
12 places the minor in 24-hour out-of-home care, shall be liable for
13 the cost of the minor's care, support, and maintenance when the
14 minor receives Aid to Families with Dependent Children-Foster
15 Care (AFDC-FC), Supplemental Security Income-State
16 Supplementary Program (SSI-SSP), or county-only funds. As used
17 in this section, "parent" includes any person specified in Section
18 903. As used in this section, "parent" does not include a minor or
19 nonminor dependent whose minor child receives aid under Section
20 11401.4. Whenever the county welfare department or the placing
21 agency determines that a court order would be advisable and
22 effective, pursuant to Section 17552 of the Family Code, the
23 department or the agency shall notify the local child support
24 agency, or the financial evaluation officer designated pursuant to
25 Section 903.45, who shall proceed pursuant to Section 903.4 or
26 903.45.

27 ~~SEC. 39.~~

28 *SEC. 35.* Section 11253 of the Welfare and Institutions Code
29 is amended to read:

30 11253. (a) Except as provided in subdivision (b), aid shall not
31 be granted under this chapter to or on behalf of any child who has
32 attained 18 years of age unless all of the following apply:

33 (1) The child is less than 19 years of age and is attending high
34 school or the equivalent level of vocational or technical training
35 on a full-time basis.

36 (2) The child can reasonably be expected to complete the
37 educational or training program before his or her 19th birthday.

38 (b) (1) On and after January 1, 2012, aid shall be granted under
39 this chapter to or on behalf of any nonminor dependent, as defined
40 in subdivision (v) of Section 11400, if the nonminor dependent is

1 placed in the approved home of a relative under the supervision
2 of the county child welfare or probation department or Indian tribe
3 that has entered into an agreement pursuant to Section 10553.1,
4 and the nonminor dependent otherwise is eligible pursuant to
5 Section 11403.

6 (2) The eligible nonminor dependent shall be exempt from
7 Chapter 4.6 (commencing with Section 10830) of Part 2 governing
8 the statewide fingerprint imaging system.

9 (c) Notwithstanding any other law, payment of aid under this
10 chapter may be made out of state if the nonminor dependent who
11 is described in subdivision (b) is placed in the approved home of
12 a relative who resides in another state.

13 ~~SEC. 40.~~

14 *SEC. 36.* Section 11263.5 of the Welfare and Institutions Code
15 is amended to read:

16 11263.5. Notwithstanding any other provision of this chapter,
17 a child living with his or her parent, where the parent is a minor
18 or a nonminor dependent, as described in subdivision (v) of Section
19 11400, and who also is a recipient of foster care pursuant to Article
20 5 (commencing with Section 11400), is not an eligible child within
21 the meaning of this chapter for the purpose of payment of AFDC
22 benefits other than AFDC-FC benefits.

23 *SEC. 37. Section 11361 of the Welfare and Institutions Code*
24 *is amended to read:*

25 11361. (a) The Legislature finds and declares that the
26 continuation of the state-funded Kinship Guardianship Assistance
27 Payment Program is intended to enhance family preservation and
28 stability by recognizing that some dependent children and wards
29 of the juvenile court who are not otherwise eligible under Subtitle
30 IV-E (commencing with Section 470) of the federal Social Security
31 Act (42 U.S.C. Sec. 670 et seq.) are in long-term, stable placements
32 with relatives funded under the CalWORKs program pursuant to
33 Section 11450, that these placements are the permanent plan for
34 the child, that dependencies can be dismissed pursuant to Section
35 366.3 with legal guardianship granted to the relative, and that there
36 is no need for continued governmental intervention in the family
37 life through ongoing, scheduled court and social services
38 supervision of the placement. Continuation of the state-funded
39 Kin-GAP Program is necessary to ensure that wards and dependent
40 children of the juvenile court whose placement in the home of an

1 approved relative is funded under the CalWORKs program are
2 equally eligible for the benefits derived from legal permanency
3 with the related guardian and that the state can maximize
4 improvements to federal permanency outcome measures by exiting
5 nonfederally eligible youth to the state's subsidized kinship
6 guardianship program.

7 *(b) It is the intent of the Legislature that the benefits of the age*
8 *extended state-funded Kinship Guardianship Assistance Payment*
9 *Program be available to nonfederally eligible nonminor former*
10 *wards and dependents, whose relationship to the guardian is*
11 *defined in paragraph (2), (3), or (4) of subdivision (c) of Section*
12 *11391, upon the nonminor's attainment of 18 years of age, if the*
13 *nonminor otherwise meets the eligibility criteria of this article.*
14 *Federal guidance in ACYF-CB-PI-10-11 permits states to expand*
15 *the definition of "relative" for purposes of federally funded*
16 *Kin-GAP to include guardians who are nonrelated extended family*
17 *members, tribal kin, and current caregivers of foster children.*
18 *Nonminor former wards and dependents of these nonrelated*
19 *guardians are not currently eligible for state or federally funded*
20 *Kin-GAP, but are only eligible for benefits pursuant to Section*
21 *11405, which requires ongoing county child welfare agency case*
22 *management. By expanding the definition of relative for federally*
23 *funded Kin-GAP for guardianships ordered in juvenile court for*
24 *wards and dependents on or after October 1, 2012, the state*
25 *achieves increases in federal financial participation assistance*
26 *payments and achieves savings to child welfare case management.*
27 *However, at 18 years of age, the continuation of state or federally*
28 *funded Kin-GAP to nonminors is limited to nonminors whose*
29 *Kin-GAP negotiated agreement payments commenced on or after*
30 *16 years of age. The Legislature finds and declares that the*
31 *continuation of state-funded Kin-GAP to nonminors impacted by*
32 *the expanded definition of "relative guardian" is necessary to*
33 *ensure that inadvertent fiscal disincentives are not created for*
34 *foster parents who want to become the legal guardians of foster*
35 *children and that nonminor former wards and dependents continue*
36 *to be eligible for Kin-GAP state-funded assistance payments in*
37 *lieu of state-funded assistance payments that they would otherwise*
38 *be entitled to receive under Section 11405.*

39 SEC. 38. Section 11362 of the Welfare and Institutions Code
40 is amended to read:

1 11362. For purposes of this article, the following definitions
2 shall apply:

3 (a) “Kinship Guardianship Assistance Payments (Kin-GAP)”
4 means the state-funded aid provided under the terms of this article
5 on behalf of children in kinship care who are not eligible for
6 federally funded Kin-GAP pursuant to Section 11385.

7 (b) “Kinship guardian” means a person who (1) has been
8 appointed the legal guardian of a dependent child pursuant to
9 Section 360 or 366.26, or a ward of the juvenile court pursuant to
10 subdivision (d) of Section 728 and (2) is a relative of the child.

11 (c) (1) “Relative” means an adult who is related to the child
12 by blood, adoption, or affinity within the fifth degree of kinship,
13 including stepparents, stepsiblings, and all relatives whose status
14 is preceded by the words “great,” “great-great,” or “grand” or the
15 spouse of any of those persons even if the marriage was terminated
16 by death or dissolution.

17 (2) “Relative” also means a kinship guardian of a nonfederally
18 eligible nonminor former ward or dependent who, at the time of
19 appointment as a kinship guardian, met any of the following:

20 (A) An adult who met the definition of an approved, nonrelated
21 extended family member, as described in Section 362.7.

22 (B) An adult who was either a member of the Indian child’s
23 tribe or an Indian custodian as defined in Section 1903(6) of Title
24 25 of the United States Code.

25 (C) An adult who was the current foster parent of a child under
26 the juvenile court’s jurisdiction, who has established a significant
27 and family-like relationship with the child, and the child and the
28 county child welfare agency, probation department, or Indian
29 tribe, consortium of tribes, or tribal organization that has entered
30 into an agreement pursuant to Section 10553.1 identified this adult
31 as the child’s permanent connection.

32 (d) “Nonfederally eligible nonminor former ward or dependent”
33 means a person who attains 18 years of age while in receipt of
34 Kin-GAP benefits pursuant to Article 4.7 (commencing with Section
35 11385), whose relationship to the kinship guardian is defined in
36 paragraph (2), (3), or (4) of subdivision (c) of Section 11391, and
37 who was under 16 years of age at the time the Kin-GAP negotiated
38 agreement payments commenced.

~~SEC. 41.~~

SEC. 39. Section 11363 of the Welfare and Institutions Code is amended to read:

11363. (a) Aid in the form of state-funded Kin-GAP shall be provided under this article on behalf of any child under 18 years of age and to any eligible youth under 19 years of age as provided in Section 11403, who satisfies all of the following conditions:

(1) Has been adjudged a dependent child of the juvenile court pursuant to Section 300, or, effective October 1, 2006, a ward of the juvenile court pursuant to Section 601 or 602.

(2) Has been residing for at least six consecutive months in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement.

(3) Has had a kinship guardianship established pursuant to Section 360 or 366.26.

(4) Has had his or her dependency jurisdiction terminated after January 1, 2000, pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (d) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

(b) If the conditions specified in subdivision (a) are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue unless and until the juvenile court, after holding a hearing, orders the child removed from the home of the guardian, terminates the guardianship, or maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.

(c) A child or nonminor former dependent or ward shall be eligible for Kin-GAP payments if he or she meets one of the following age criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a physical or mental disability that warrants the continuation of assistance.

(3) Through December 31, 2011, he or she satisfies the conditions of Section 11403, and on and after January 1, 2012, he or she satisfies the conditions of Section 11403.01.

(4) He or she satisfies the conditions as described in subdivision (d).

1 (d) Commencing January 1, 2012, state-funded Kin-GAP
2 payments shall continue for youths who have attained 18 years of
3 age and who are under ~~20~~ 19 years of age, if they reached 16 years
4 of age before the Kin-GAP negotiated agreement payments
5 commenced, *and as described in Section 10103.5. Effective*
6 *January 1, 2013, Kin-GAP payments shall continue for youths*
7 *who have attained 18 years of age and are under 20 years of age,*
8 *if they reached 16 years of age before the Kin-GAP negotiated*
9 *agreement payments commenced, and as described in Section*
10 *10103.5. Effective January 1, 2014, Kin-GAP payments shall*
11 *continue for youths who have attained 18 years of age and are*
12 *under 21 years of age, if they reached 16 years of age before the*
13 *Kin-GAP negotiated agreement payments commenced. To be*
14 *eligible for continued payments, the youth shall satisfy one or more*
15 *of the conditions specified in subparagraphs (A) to (E), inclusive,*
16 *of paragraph (3) paragraphs (1) to (5), inclusive, of subdivision*
17 *(b) of Section 11403.*

18 (e) Termination of the guardianship with a kinship guardian
19 shall terminate eligibility for Kin-GAP unless the conditions in
20 Section 11403 apply; provided, however, that if an alternate
21 guardian or coguardian is appointed pursuant to Section 366.3 who
22 is also a kinship guardian, the alternate or coguardian shall be
23 entitled to receive Kin-GAP on behalf of the child pursuant to this
24 article. A new period of six months of placement with the alternate
25 guardian or coguardian shall not be required if that alternate
26 guardian or coguardian has been assessed pursuant to Sections
27 361.3 and 361.4 and the court terminates dependency jurisdiction.

28 SEC. 40. Section 11363.1 is added to the Welfare and
29 Institutions Code, to read:

30 11363.1. (a) *It is the intent of the Legislature to provide a*
31 *seamless and minimally intrusive process to allow an otherwise*
32 *nonfederally eligible nonminor former ward or dependent who*
33 *attains 18 years of age while in receipt of federally funded*
34 *Kin-GAP assistance payments pursuant to Article 4.7 (commencing*
35 *with Section 11385) to transition to state-funded Kin-GAP under*
36 *this article with minimal disruption to the existing relative guardian*
37 *and the child, and with no break in the continuity of assistance*
38 *payments.*

39 (b) *Nonfederally eligible nonminor former ward or dependents,*
40 *as defined in subdivision (e) of Section 11362 shall be eligible for*

1 *transition to state-funded Kin-GAP benefits under this article on*
2 *their 18th birthday if they otherwise meet eligibility conditions of*
3 *age-extended Kin-GAP, including meeting the participation criteria*
4 *as specified in paragraphs (1) to (5), inclusive, of subdivision (b)*
5 *of Section 11403.*

6 *SEC. 41. Section 11364 of the Welfare and Institutions Code*
7 *is amended to read:*

8 11364. (a) In order to receive payments under this article, the
9 county child welfare agency, probation department, ~~or~~ Indian tribe,
10 *consortium of tribes, or tribal organization* that has entered into
11 an agreement pursuant to Section 10553.1, shall negotiate and
12 enter into a written, binding, kinship guardianship assistance
13 agreement with the relative guardian of an eligible child, and
14 provide the relative guardian with a copy of the agreement.

15 (b) The agreement shall specify, at a minimum, all of the
16 following:

17 (1) The amount of and manner in which the kinship guardianship
18 assistance payment will be provided under the agreement, and that
19 the amount is subject to any applicable increases pursuant to
20 cost-of-living adjustments established by statute, and the manner
21 in which the agreement may be adjusted periodically, but no less
22 frequently than every two years, in consultation with the relative
23 guardian, based on the circumstances of the relative guardian and
24 the needs of the child.

25 (2) Additional services and assistance for which the child and
26 relative guardian will be eligible under the agreement.

27 (3) A procedure by which the relative guardian may apply for
28 additional services, as needed, including the filing of a petition
29 under Section 388 to have dependency jurisdiction resumed
30 pursuant to subdivision (b) of Section 366.3.

31 (4) That the agreement shall remain in effect regardless of the
32 state of residency of the relative guardian.

33 (5) The responsibility of the relative guardian for reporting
34 changes in the needs of the child or the circumstances of the
35 relative guardian that affect payment.

36 (6) For guardianships established on and after January 1, 2012,
37 payment shall be made for reasonable and verified nonrecurring
38 expenses associated with obtaining legal guardianship not to exceed
39 the amount specified in federal law. Reimbursement shall not be
40 made for costs otherwise reimbursed from other sources, including

1 the foster care maintenance payment. The agreement shall indicate
2 the maximum amount, the purpose of the expense, and the process
3 for obtaining reimbursement of the nonrecurring expenses to be
4 paid.

5 (c) In accordance with the Kin-GAP agreement, the relative
6 guardian shall be paid an amount of aid based on the child's needs
7 otherwise covered in AFDC-FC payments and the circumstances
8 of the relative guardian, but that shall not exceed the foster care
9 maintenance payment that would have been paid based on the
10 age-related state-approved foster family home care rate and any
11 applicable specialized care increment for a child placed in a
12 licensed or approved family home pursuant to subdivisions (a) to
13 (d), inclusive, of Section 11461. In addition, the rate paid for a
14 child eligible for a Kin-GAP payment shall include an amount
15 equal to the clothing allowance, as set forth in subdivision (f) of
16 Section 11461, including any applicable rate adjustments. For a
17 child eligible for a Kin-GAP payment who is a teen parent, the
18 rate shall include the two-hundred-dollar (\$200) monthly payment
19 made to the relative caregiver in a whole family foster home
20 pursuant to paragraph (3) of subdivision (d) of Section 11465.

21 (d) Commencing on the effective date of the act that added this
22 subdivision, and notwithstanding subdivision (c), in accordance
23 with the Kin-GAP agreement, the relative guardian shall be paid
24 an amount of aid based on the child's needs otherwise covered in
25 AFDC-FC payments and the circumstances of the relative guardian,
26 as follows:

27 (1) For cases in which the dependency has been dismissed
28 pursuant to Section 366.3 or wardship has been terminated pursuant
29 to subdivision ~~(e)~~ (d) of Section 728, concurrently or subsequently
30 to establishment of the guardianship, on or before June 30, 2011,
31 or the date specified in a final order, for which the time to appeal
32 has passed, issued by a court of competent jurisdiction in California
33 State Foster Parent Association, et al. v. William Lightbourne, et
34 al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier,
35 the rate paid shall not exceed the basic foster care maintenance
36 payment rate structure in effect prior to the effective date specified
37 in the order described in this paragraph.

38 (2) For cases in which dependency has been dismissed pursuant
39 to Section 366.3 or wardship has been terminated pursuant to
40 subdivision ~~(e)~~ (d) of Section 728, concurrently or subsequently

1 to establishment of the guardianship, on or after July 1, 2011, or
2 the date specified in the order described in paragraph (1), whichever
3 is earlier, the rate paid shall not exceed the basic foster care
4 maintenance payment rate as set forth in paragraph (1) of
5 subdivision (g) of Section 11461.

6 (3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit
7 payments rate structure shall be adjusted annually by the percentage
8 change in the California Necessities Index, as set forth in paragraph
9 (2) of subdivision (g) of Section 11461, without requiring a new
10 agreement.

11 (4) In addition to the rate paid for a child eligible for a Kin-GAP
12 payment, a specialized care increment, if applicable, as set forth
13 in subdivision (e) of Section 11461, also shall be paid.

14 (5) In addition to the rate paid for a child eligible for a Kin-GAP
15 payment, a clothing allowance, as set forth in subdivision (f) of
16 Section 11461, also shall be paid.

17 (6) For a child eligible for a Kin-GAP payment who is a teen
18 parent, the rate shall include the two-hundred-dollar (\$200)
19 monthly payment made to the relative caregiver in a whole family
20 foster home pursuant to paragraph (3) of subdivision (d) of Section
21 11465.

22 (e) The county child welfare agency, probation department, ~~or~~
23 Indian tribe, *consortium of tribes, or tribal organization* that
24 entered into an agreement pursuant to Section 10553.1 shall provide
25 the relative guardian with information, in writing, on the
26 availability of the Kin-GAP program with an explanation of the
27 difference between these benefits and Adoption Assistance Program
28 benefits and AFDC-FC benefits. The agency shall also provide
29 the relative guardian with information on the availability of mental
30 health services through the Medi-Cal program or other programs.

31 (f) The county child welfare agency, probation department, ~~or~~
32 Indian tribe, *consortium of tribes, or tribal organization*, as
33 appropriate, shall assess the needs of the child and the
34 circumstances of the related guardian and is responsible for
35 determining that the child meets the eligibility criteria for payment.

36 (g) Payments on behalf of a child who is a recipient of Kin-GAP
37 benefits and who is also a consumer of regional center services
38 shall be based on the rates established by the State Department of
39 Social Services pursuant to Section 11464.

1 SEC. 42. Section 11386 of the Welfare and Institutions Code
2 is amended to read:

3 11386. Aid shall be provided under this article on behalf of a
4 child under 18 years of age, and to any eligible youth under 19
5 years of age, as provided in Section 11403, under all of the
6 following conditions:

7 (a) The child satisfies both of the following requirements:

8 (1) He or she has been removed from his or her home pursuant
9 to a voluntary placement agreement, or as a result of judicial
10 determination, including being adjudged a dependent child of the
11 court, pursuant to Section 300, or a ward of the court, pursuant to
12 Section 601 or 602, to the effect that continuation in the home
13 would be contrary to the welfare of the child.

14 (2) He or she has been eligible for federal foster care
15 maintenance payments under Article 5 (commencing with Section
16 11400) while residing for at least six consecutive months in the
17 approved home of the prospective relative guardian while under
18 the jurisdiction of the juvenile court or a voluntary placement
19 agreement.

20 (b) Being returned to the parental home or adopted are not
21 appropriate permanency options for the child.

22 (c) The child demonstrates a strong attachment to the relative
23 guardian, and the relative guardian has a strong commitment to
24 caring permanently for the child and, with respect to the child who
25 has attained 12 years of age, the child has been consulted regarding
26 the kinship guardianship arrangement.

27 (d) The child has had a kinship guardianship established
28 pursuant to Section 360 or 366.26.

29 (e) The child has had his or her dependency jurisdiction
30 terminated pursuant to Section 366.3, or his or her wardship
31 terminated pursuant to subdivision (d) of Section 728, concurrently
32 or subsequently to the establishment of the kinship guardianship.

33 (f) If the conditions specified in subdivisions (a) through (e),
34 inclusive, are met and, subsequent to the termination of dependency
35 jurisdiction, any parent or person having an interest files with the
36 juvenile court a petition pursuant to Section 388 to change, modify,
37 or set aside an order of the court, Kin-GAP payments shall continue
38 unless and until the juvenile court orders the child removed from
39 the home of the guardian, terminates the guardianship, or maintains

1 dependency jurisdiction after the court concludes the hearing on
2 the petition filed under Section 388.

3 (g) A child or nonminor former dependent or ward shall be
4 eligible for Kin-GAP payments if he or she meets one of the
5 following age criteria:

6 (1) He or she is under 18 years of age.

7 (2) He or she is under 21 years of age and has a physical or
8 mental disability that warrants the continuation of assistance.

9 (3) Through December 31, 2011, he or she satisfies the
10 conditions of Section 11403, and on and after January 1, 2012, he
11 or she satisfies the conditions of Section 11403.01.

12 (4) He or she satisfies the conditions as described in subdivision
13 (h).

14 (h) Effective January 1, 2012, Kin-GAP payments shall continue
15 for youths who have attained 18 years of age and are under ~~20~~ 19
16 years of age, if they reached 16 years of age before the Kin-GAP
17 negotiated agreement payments commenced, *and as described in*
18 *Section 10103.5. Effective January 1, 2013, Kin-GAP payments*
19 *shall continue for youths who have attained 18 years of age and*
20 *are under 20 years of age, if they reached 16 years of age before*
21 *the Kin-GAP negotiated agreement payments commenced, and as*
22 *described in Section 10103.5. Effective January 1, 2014, Kin-GAP*
23 *payments shall continue for youths who have attained 18 years of*
24 *age and are under 21 years of age, if they reached 16 years of age*
25 *before the Kin-GAP negotiated agreement payments commenced.*
26 To be eligible for continued payments, the youth shall satisfy one
27 or more of the conditions specified in ~~subparagraphs (A) to (E),~~
28 ~~inclusive, of paragraph (3) paragraphs (1) to (5), inclusive, of~~
29 subdivision (b) of Section 11403.

30 (i) Termination of the guardianship with a kinship guardian
31 shall terminate eligibility for Kin-GAP, unless the conditions of
32 Section 11403 apply, provided, however, that if an alternate
33 guardian or coguardian is appointed pursuant to Section 366.3 who
34 is also a kinship guardian, the alternate or coguardian shall be
35 entitled to receive Kin-GAP on behalf of the child pursuant to this
36 article. A new period of six months of placement with the alternate
37 guardian or coguardian shall not be required if that alternate
38 guardian or coguardian has been assessed pursuant to Section 361.3
39 and Section 361.4 and the court terminates dependency jurisdiction,
40 subject to federal approval of amendments to the state plan.

SEC. 43. Section 11387 of the Welfare and Institutions Code is amended to read:

11387. (a) In order to receive federal financial participation for payments under this article, the county child welfare agency or probation department ~~or~~, Indian tribe, *consortium of tribes*, or *tribal organization* that entered into an agreement pursuant to Section 10553.1 shall negotiate and enter into a written, binding, kinship guardianship assistance agreement with the relative guardian of an eligible child, and provide the relative guardian with a copy of the agreement. The negotiated agreement shall be executed prior to establishment of the guardianship.

(b) The agreement shall specify, at a minimum, all of the following:

(1) The amount of and manner in which the kinship guardianship assistance payment will be provided under the agreement, that the amount is subject to any applicable increases pursuant to cost-of-living adjustments established by statute and the manner in which the agreement may be adjusted periodically, but no less frequently than every two years, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child.

(2) Additional services and assistance for which the child and relative guardian will be eligible under the agreement.

(3) A procedure by which the relative guardian may apply for additional services, as needed, including, but not limited to, the filing of a petition under Section 388 to have dependency jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

(4) The agreement shall provide that it shall remain in effect regardless of the state of residency of the relative guardian.

(5) The responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

(6) For a guardianship established on and after January 1, 2012, payment shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed the amount specified in federal law. Reimbursement shall not be made for costs otherwise reimbursed from other sources, including the foster care maintenance payment. The agreement shall indicate the maximum amount, the purpose of the expense, and the process

for obtaining reimbursement of the nonrecurring expenses to be paid.

(c) In accordance with the Kin-GAP agreement, the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian but that shall not exceed the foster care maintenance payment that would have been paid based on the age-related state-approved foster family home care rate and any applicable specialized care increment for a child placed in a licensed or approved family home pursuant to subdivisions (a) to (d), inclusive, of Section 11461. In addition, the rate paid for a child eligible for a Kin-GAP payment shall include an amount equal to the clothing allowance, as set forth in subdivision (f) of Section 11461, including any applicable rate adjustments. For a child eligible for a Kin-GAP payment who is a teen parent, the rate shall include the two-hundred-dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

(d) Commencing on the effective date of the act that added this subdivision, and notwithstanding subdivision (c), in accordance with the Kin-GAP agreement the relative guardian shall be paid an amount of aid based on the child's needs otherwise covered in AFDC-FC payments and the circumstances of the relative guardian, as follows:

(1) For cases in which the dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to establishment of the guardianship, on or before June 30, 2011, or the date specified in a final order, for which the time to appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the rate paid shall not exceed the basic foster care maintenance payment rate structure in effect prior to the effective date specified in the order described in this paragraph.

(2) For cases in which dependency has been dismissed pursuant to Section 366.3 or wardship has been terminated pursuant to subdivision ~~(e)~~ (d) of Section 728, concurrently or subsequently to establishment of the guardianship, on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever

1 is earlier, the rate paid shall not exceed the basic foster care
2 maintenance payment rate as set forth in paragraph (1) of
3 subdivision (g) of Section 11461.

4 (3) Beginning with the 2011–12 fiscal year, the Kin-GAP benefit
5 payment rate structure shall be adjusted annually by the percentage
6 change in the California Necessities Index, as set forth in paragraph
7 (2) of subdivision (g) of Section 11461, without requiring a new
8 agreement.

9 (4) In addition to the rate paid for a child eligible for a Kin-GAP
10 payment, a specialized care increment, if applicable, as set forth
11 in subdivision (e) of Section 11461, shall be paid.

12 (5) In addition to the rate paid for a child eligible for a Kin-GAP
13 payment, a clothing allowance, as set forth in subdivision (f) of
14 Section 11461, shall be paid.

15 (6) For a child eligible for a Kin-GAP payment who is a teen
16 parent, the rate shall include the two-hundred-dollar (\$200)
17 monthly payment made to the relative caregiver in a whole family
18 foster home pursuant to paragraph (3) of subdivision (d) of Section
19 11465.

20 (e) The county child welfare agency or probation department
21 ~~or~~, Indian tribe, *consortium of tribes, or tribal organization* that
22 entered into an agreement pursuant to Section 10553.1 shall provide
23 the relative guardian with information, in writing, on the
24 availability of the federal Kin-GAP program with an explanation
25 of the difference between these benefits and Adoption Assistance
26 Program benefits and AFDC-FC benefits. The agency shall also
27 provide the relative guardian with information on the availability
28 of mental health services through the Medi-Cal program or other
29 programs.

30 (f) The county child welfare agency, probation department, or
31 Indian tribe, as appropriate, shall assess the needs of the child and
32 the circumstances of the related guardian and is responsible for
33 determining that the child meets the eligibility criteria for payment.

34 (g) Payments on behalf of a child who is a recipient of Kin-GAP
35 benefits and who is also a consumer of regional center services
36 shall be based on the rates established by the State Department of
37 Social Services pursuant to Section 11464.

38 SEC. 44. Section 11391 of the Welfare and Institutions Code
39 is amended to read:

1 11391. For purposes of this article, the following definitions
2 shall apply:

3 (a) “Kinship Guardianship Assistance Payments (Kin-GAP)”
4 means the aid provided on behalf of children eligible for federal
5 financial participation under Section 671(a)(28) of Title 42 of the
6 United States Code in kinship care under the terms of this article.

7 (b) “Kinship guardian” means a person who meets both of the
8 following criteria:

9 (1) He or she has been appointed the legal guardian of a
10 dependent child pursuant to Section 366.26 or Section 360 or a
11 ward of the juvenile court pursuant to subdivision (d) of Section
12 728.

13 (2) He or she is a relative of the child.

14 (c) ~~“Relative”~~—*“Relative,” subject to federal approval of*
15 *amendments to the state plan,* means any of the following:

16 (1) An adult who is related to the child by blood, adoption, or
17 affinity within the fifth degree of kinship, including stepparents,
18 stepsiblings, and all relatives whose status is preceded by the words
19 “great,” “great-great,” or “grand” or the spouse of any of those
20 persons even if the marriage was terminated by death or
21 dissolution.

22 (2) An adult who meets the definition of an approved, nonrelated
23 extended family member, as described in Section 362.7.

24 (3) An adult who is *either* a member of the Indian child’s tribe,
25 *or an Indian custodian, as defined in Section 1903(6) of Title 25*
26 *of the United States Code.*

27 (4) An adult who is the current foster parent of a child under
28 the juvenile court’s jurisdiction, who has established a significant
29 and family-like relationship with the child, and the child and the
30 county child welfare agency, probation department, ~~or~~ Indian tribe,
31 *consortium of tribes, or tribal organization* that has entered into
32 an agreement pursuant to Section 10553.1 identify this adult as
33 the child’s permanent connection.

34 (d) “Sibling” means a child related to the identified eligible
35 child by blood, adoption, or affinity through a common legal or
36 biological parent.

37 ~~SEC. 45. Section 11400 of the Welfare and Institutions Code~~
38 ~~is amended to read:~~

39 ~~11400. For the purposes of this article, the following definitions~~
40 ~~shall apply:~~

1 (a) ~~“Aid to Families with Dependent Children-Foster Care~~
2 ~~(AFDC-FC)” means the aid provided on behalf of needy children~~
3 ~~in foster care under the terms of this division.~~

4 (b) ~~“Case plan” means a written document that, at a minimum,~~
5 ~~specifies the type of home in which the child shall be placed, the~~
6 ~~safety of that home, and the appropriateness of that home to meet~~
7 ~~the child’s needs. It shall also include the agency’s plan for~~
8 ~~ensuring that the child receive proper care and protection in a safe~~
9 ~~environment, and shall set forth the appropriate services to be~~
10 ~~provided to the child, the child’s family, and the foster parents, in~~
11 ~~order to meet the child’s needs while in foster care, and to reunify~~
12 ~~the child with the child’s family. In addition, the plan shall specify~~
13 ~~the services that will be provided or steps that will be taken to~~
14 ~~facilitate an alternate permanent plan if reunification is not possible.~~

15 (c) ~~“Certified family home” means a family residence certified~~
16 ~~by a licensed foster family agency and issued a certificate of~~
17 ~~approval by that agency as meeting licensing standards, and used~~
18 ~~only by that foster family agency for placements.~~

19 (d) ~~“Family home” means the family residency of a licensee in~~
20 ~~which 24-hour care and supervision are provided for children.~~

21 (e) ~~“Small family home” means any residential facility, in the~~
22 ~~licensee’s family residence, which provides 24-hour care for six~~
23 ~~or fewer foster children who have mental disorders or~~
24 ~~developmental or physical disabilities and who require special care~~
25 ~~and supervision as a result of their disabilities.~~

26 (f) ~~“Foster care” means the 24-hour out-of-home care provided~~
27 ~~to children whose own families are unable or unwilling to care for~~
28 ~~them, and who are in need of temporary or long-term substitute~~
29 ~~parenting.~~

30 (g) ~~“Foster family agency” means any individual or organization~~
31 ~~engaged in the recruiting, certifying, and training of, and providing~~
32 ~~professional support to, foster parents, or in finding homes or other~~
33 ~~places for placement of children for temporary or permanent care~~
34 ~~who require that level of care as an alternative to a group home.~~
35 ~~Private foster family agencies shall be organized and operated on~~
36 ~~a nonprofit basis.~~

37 (h) ~~“Group home” means a nondetention privately operated~~
38 ~~residential home, organized and operated on a nonprofit basis only;~~
39 ~~of any capacity, or a nondetention licensed residential care home~~
40 ~~operated by the County of San Mateo with a capacity of up to 25~~

1 beds, that provides services in a group setting to children in need
2 of care and supervision, as required by paragraph (1) of subdivision
3 (a) of Section 1502 of the Health and Safety Code.

4 (i) “Periodic review” means review of a child’s status by the
5 juvenile court or by an administrative review panel, that shall
6 include a consideration of the safety of the child, a determination
7 of the continuing need for placement in foster care, evaluation of
8 the goals for the placement and the progress toward meeting these
9 goals, and development of a target date for the child’s return home
10 or establishment of alternative permanent placement.

11 (j) “Permanency planning hearing” means a hearing conducted
12 by the juvenile court in which the child’s future status, including
13 whether the child shall be returned home or another permanent
14 plan shall be developed, is determined.

15 (k) “Placement and care” refers to the responsibility for the
16 welfare of a child vested in an agency or organization by virtue of
17 the agency or organization having (1) been delegated care, custody,
18 and control of a child by the juvenile court, (2) taken responsibility,
19 pursuant to a relinquishment or termination of parental rights on
20 a child, (3) taken the responsibility of supervising a child detained
21 by the juvenile court pursuant to Section 319 or 636, or (4) signed
22 a voluntary placement agreement for the child’s placement; or to
23 the responsibility designated to an individual by virtue of his or
24 her being appointed the child’s legal guardian.

25 (l) “Preplacement preventive services” means services that are
26 designed to help children remain with their families by preventing
27 or eliminating the need for removal.

28 (m) “Relative” means an adult who is related to the child by
29 blood, adoption, or affinity within the fifth degree of kinship,
30 including stepparents, stepsiblings, and all relatives whose status
31 is preceded by the words “great,” “great-great,” or “grand” or the
32 spouse of any of these persons even if the marriage was terminated
33 by death or dissolution.

34 (n) “Nonrelative extended family member” means an adult
35 caregiver who has an established familial or mentoring relationship
36 with the child, as described in Section 362.7.

37 (o) “Voluntary placement” means an out-of-home placement
38 of a child by (1) the county welfare department, probation
39 department, or Indian tribe that has entered into an agreement
40 pursuant to Section 10553.1, after the parents or guardians have

1 requested the assistance of the county welfare department and have
2 signed a voluntary placement agreement; or (2) the county welfare
3 department licensed public or private adoption agency, or the
4 department acting as an adoption agency, after the parents have
5 requested the assistance of either the county welfare department,
6 the licensed public or private adoption agency, or the department
7 acting as an adoption agency for the purpose of adoption planning;
8 and have signed a voluntary placement agreement.

9 (p) “Voluntary placement agreement” means a written agreement
10 between either the county welfare department, probation
11 department, or Indian tribe that has entered into an agreement
12 pursuant to Section 10553.1, licensed public or private adoption
13 agency, or the department acting as an adoption agency, and the
14 parents or guardians of a child that specifies, at a minimum, the
15 following:

16 (1) The legal status of the child.

17 (2) The rights and obligations of the parents or guardians, the
18 child, and the agency in which the child is placed.

19 (q) “Original placement date” means the most recent date on
20 which the court detained a child and ordered an agency to be
21 responsible for supervising the child or the date on which an agency
22 assumed responsibility for a child due to termination of parental
23 rights, relinquishment, or voluntary placement.

24 (r) “Transitional housing placement facility” means either of
25 the following:

26 (1) A community care facility licensed by the State Department
27 of Social Services pursuant to Section 1559.110 of the Health and
28 Safety Code to provide transitional housing opportunities to persons
29 at least 16 years of age, and not more than 18 years of age and, on
30 or after January 1, 2012, any nonminor dependent who has not
31 attained 19 years of age, as described in paragraph (1) of
32 subdivision (a) of Section 11403.2, may remain in the facility if
33 it is in their best interests in order to complete high school or its
34 equivalent, or to finish the high school year prior to their 19th
35 birthday. These provisions shall apply to those who are in
36 out-of-home placement under the supervision of the county
37 department of social services or the county probation department,
38 and who are participating in an independent living program.

1 ~~(2) A facility certified to provide transitional housing services~~
2 ~~pursuant to subdivision (e) of Section 1559.110 of the Health and~~
3 ~~Safety Code.~~

4 ~~(s) “Transitional housing placement program” means a program~~
5 ~~that provides supervised housing opportunities to eligible youth~~
6 ~~and nonminor dependents pursuant to Article 4 (commencing with~~
7 ~~Section 16522) of Chapter 5 of Part 4.~~

8 ~~(t) “Whole family foster home” means a new or existing family~~
9 ~~home, approved relative caregiver or nonrelative extended family~~
10 ~~member’s home, the home of a nonrelated legal guardian whose~~
11 ~~guardianship was established pursuant to Section 360 or 366.26,~~
12 ~~certified family home, or a host family home placement of a~~
13 ~~THP-Plus Foster Care program as described in subdivision (x);~~
14 ~~that provides foster care for a minor or nonminor dependent parent~~
15 ~~and his or her child, and is specifically recruited and trained to~~
16 ~~assist the minor or nonminor dependent parent in developing the~~
17 ~~skills necessary to provide a safe, stable, and permanent home for~~
18 ~~his or her child. The child of the minor or nonminor dependent~~
19 ~~parent need not be the subject of a petition filed pursuant to Section~~
20 ~~300 to qualify for placement in a whole family foster home.~~

21 ~~(u) “Mutual agreement” means, on and after January 1, 2012,~~
22 ~~any of the following:~~

23 ~~(1) A written voluntary agreement of consent for continued~~
24 ~~placement and care in a supervised setting between a minor or a~~
25 ~~nonminor dependent, and the county welfare services or probation~~
26 ~~department or tribal agency responsible for the foster care~~
27 ~~placement, that documents the nonminor’s continued willingness~~
28 ~~to remain in supervised out-of-home placement under the~~
29 ~~placement and care of the responsible county or tribal agency,~~
30 ~~remain under the jurisdiction of the juvenile court as a nonminor~~
31 ~~dependent, and report any change of circumstances relevant to~~
32 ~~continued eligibility for foster care payments, and that documents~~
33 ~~the nonminor’s and social worker’s or probation officer’s~~
34 ~~agreement to work together to facilitate implementation of the~~
35 ~~mutually developed supervised placement agreement and~~
36 ~~transitional independent living ease plan.~~

37 ~~(2) An agreement, as described in paragraph (1), between a~~
38 ~~nonminor former dependent or ward in receipt of Kin-GAP~~
39 ~~payments under Article 4.5 (commencing with Section 11360) or~~
40 ~~Article 4.7 (commencing with Section 11385), and the agency~~

1 responsible for the Kin-GAP benefits, provided that the nonminor
2 former dependent or ward satisfies the conditions described in
3 Section 11403.01, or one or more of the conditions described in
4 subparagraphs (A) to (E), inclusive, of paragraph (3) of subdivision
5 (b) of Section 11403. For purposes of this paragraph and paragraph
6 (3), “nonminor former dependent or ward” means a person over
7 18 years of age who receives either Kin-GAP or AFDC-FC benefits
8 and who, as a minor, was a dependent child or ward of the juvenile
9 court and whose dependency or wardship jurisdiction was
10 dismissed following the establishment of a legal guardianship
11 pursuant to Section 366.26 or for whom no dependency jurisdiction
12 attached because of the granting of a legal guardianship pursuant
13 to Section 360.

14 (3) An agreement, as described in paragraph (1), between a
15 nonminor former dependent or ward in receipt of AFDC-FC
16 payments under subdivision (e) or (f) of Section 11405 and the
17 agency responsible for the AFDC-FC benefits, provided that the
18 nonminor former dependent or ward described in subdivision (e)
19 of Section 11405 satisfies one or more of the conditions described
20 in subparagraphs (A) to (E), inclusive, of paragraph (3) of
21 subdivision (b) of Section 11403, and the nonminor described in
22 subdivision (f) of Section 11405 satisfies the secondary school or
23 equivalent training or certificate program conditions described in
24 that subdivision.

25 (v) “Nonminor dependent” means, on and after January 1, 2012,
26 a foster child, as described in Section 675(8)(B) of Title 42 of the
27 United States Code under the federal Social Security Act who is
28 a current dependent or ward of the juvenile court, or a nonminor
29 under the transition jurisdiction of the juvenile court, as described
30 in Section 450, who satisfies all of the following criteria:

31 (1) He or she has attained 18 years of age while under an order
32 of foster care placement by the juvenile court, and is younger than
33 20 years of age as of January 1, 2012, or younger than 21 years of
34 age as of January 1, 2014.

35 (2) He or she is in foster care under the placement and care
36 responsibility of the county welfare department, county probation
37 department, or Indian tribe that entered into an agreement pursuant
38 to Section 10553.1.

39 (3) He or she is participating in a transitional independent living
40 case plan pursuant to Section 475(8) of the federal Social Security

1 Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering
2 Connections to Success and Increasing Adoptions Act of 2008
3 (Public Law 110-351), as described in Section 11403.

4 (w) “Supervised independent living setting” means, on and after
5 January 1, 2012, a supervised setting, as specified in a nonminor
6 dependent’s transitional independent living case plan, in which
7 the youth is living independently, pursuant to Section 472(c)(2)
8 of the federal Social Security Act (42 U.S.C. Sec. 672(c)(2)).

9 (x) “THP-Plus Foster Care” means, on and after January 1,
10 2012, a placement that offers supervised housing opportunities
11 and supportive services to eligible nonminor dependents at least
12 18 years of age, and on and after January 1, 2012, has not attained
13 20 years of age, and on and after January 1, 2014, has not attained
14 21 years of age, who are in out-of-home placement under the
15 placement and care responsibility of the county welfare department
16 or the county probation department or Indian tribe that entered
17 into an agreement pursuant to Section 10553.1, and who are
18 described in paragraphs (3) and (4) of subdivision (a) of Section
19 11403.2.

20 (y) “Transitional independent living case plan” means, on or
21 after January 1, 2012, the nonminor dependent’s case plan, updated
22 every six months, that describes the goals and objectives of how
23 the nonminor will make progress in the transition to living
24 independently and assume incremental responsibility for adult
25 decisionmaking, the collaborative efforts between the nonminor
26 and the social worker, probation officer, or Indian tribe to plan for
27 and engage in specific educational or employment activities, or
28 both, and supportive services as described in the transitional
29 independent living plan (TILP) to ensure active and meaningful
30 participation in one or more of the conditions described in
31 subparagraphs (A) to (E), inclusive, of paragraph (3) of subdivision
32 (b) of Section 11403, the nonminor’s appropriate supervised
33 placement setting, and the nonminor’s permanent plan for transition
34 to living independently, which includes maintaining or obtaining
35 permanent connections to caring and committed adults, as set forth
36 in paragraph (16) of subdivision (f) of Section 16501.1.

37 (z) “Voluntary reentry agreement” means a written voluntary
38 agreement between a former dependent child or ward or a former
39 nonminor dependent, who has had juvenile court jurisdiction
40 terminated pursuant to Section 391, 452, or 607.2, and the county

~~welfare or probation department or tribal placing agency that documents the nonminor's desire and willingness to reenter foster care, to be placed in a supervised setting under the placement and care responsibility of the placing agency, the nonminor's desire, willingness, and ability to immediately participate in one or more of the conditions of subparagraphs (A) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 11403, the nonminor's agreement to work collaboratively with the placing agency to develop his or her transitional independent living case plan within 60 days of reentry, the nonminor's agreement to report any changes of circumstances relevant to continued eligibility for foster care payments, and the nonminor's agreement to participate in the filing of a petition for juvenile court jurisdiction as a nonminor dependent pursuant to subdivision (e) of Section 388 within 15 judicial days of the signing of the agreement and the placing agency's efforts and supportive services to assist the nonminor in the reentry process.~~

~~SEC. 46. Section 11402 of the Welfare and Institutions Code, as amended by Section 32 of Chapter 459 of the Statutes of 2011, is amended to read:~~

~~11402. In order to be eligible for AFDC-FC, a child or nonminor dependent shall be placed in one of the following:~~

~~(a) The approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.~~

~~(b) (1) The licensed family home of a nonrelative.~~

~~(2) The approved home of a nonrelative extended family member as described in Section 362.7.~~

~~(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.~~

~~(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.~~

~~(e) An exclusive-use home.~~

~~(f) A licensed transitional housing placement facility, as described in Section 1559.110 of the Health and Safety Code, and as defined in subdivision (r) of Section 11400, or a transitional~~

1 housing placement program, as defined in subdivision (s) of Section
2 11400.

3 ~~(g) An out-of-state group home, provided that the placement~~
4 ~~worker, in addition to complying with all other statutory~~
5 ~~requirements for placing a minor in an out-of-state group home,~~
6 ~~documents that the requirements of Section 7911.1 of the Family~~
7 ~~Code have been met.~~

8 ~~(h) A licensed crisis nursery, as described in Section 1516 of~~
9 ~~the Health and Safety Code, and as defined in subdivision (a) of~~
10 ~~Section 11400.1.~~

11 ~~(i) A supervised independent living setting for nonminor~~
12 ~~dependents, as defined in Section 11400.~~

13 ~~(j) A licensed THP-Plus Foster Care placement for nonminor~~
14 ~~dependents, as defined in subdivision (x) of Section 11400.~~

15 ~~(k) This section shall remain in effect only until July 1, 2012,~~
16 ~~and as of that date is repealed, unless a later enacted statute, that~~
17 ~~is enacted before July 1, 2012, deletes or extends that date.~~

18 ~~SEC. 47. Section 11402 of the Welfare and Institutions Code,~~
19 ~~as amended by Section 33 of Chapter 459 of the Statutes of 2011,~~
20 ~~is amended to read:~~

21 ~~11402. In order to be eligible for AFDC-FC, a child or~~
22 ~~nonminor dependent shall be placed in one of the following:~~

23 ~~(a) The approved home of a relative, provided the child is~~
24 ~~otherwise eligible for federal financial participation in the~~
25 ~~AFDC-FC payment.~~

26 ~~(b) (1) The licensed family home of a nonrelative.~~

27 ~~(2) The approved home of a nonrelative extended family~~
28 ~~member as described in Section 362.7.~~

29 ~~(c) A licensed group home, as defined in subdivision (h) of~~
30 ~~Section 11400, provided that the placement worker has documented~~
31 ~~that the placement is necessary to meet the treatment needs of the~~
32 ~~child and that the facility offers those treatment services.~~

33 ~~(d) The home of a nonrelated legal guardian or the home of a~~
34 ~~former nonrelated legal guardian when the guardianship of a child~~
35 ~~who is otherwise eligible for AFDC-FC has been dismissed due~~
36 ~~to the child's attaining 18 years of age.~~

37 ~~(e) An exclusive-use home.~~

38 ~~(f) A licensed transitional housing placement facility as~~
39 ~~described in Section 1559.110 of the Health and Safety Code and~~
40 ~~as defined in subdivision (r) of Section 11400, or a transitional~~

1 housing placement program, as defined in subdivision (s) of Section
2 11400.

3 ~~(g) An out-of-state group home, provided that the placement~~
4 ~~worker, in addition to complying with all other statutory~~
5 ~~requirements for placing a minor in an out-of-state group home,~~
6 ~~documents that the requirements of Section 7911.1 of the Family~~
7 ~~Code have been met.~~

8 ~~(h) A supervised independent living setting for nonminor~~
9 ~~dependents, as defined in Section 11400.~~

10 ~~(i) A licensed THP-Plus Foster Care placement for nonminor~~
11 ~~dependents, as defined in subdivision (x) of Section 11400.~~

12 ~~(j) This section shall become operative on July 1, 2012.~~

13 *SEC. 45. Section 11400 of the Welfare and Institutions Code*
14 *is amended to read:*

15 11400. For the purposes of this article, the following definitions
16 shall apply:

17 (a) “Aid to Families with Dependent Children-Foster Care
18 (AFDC-FC)” means the aid provided on behalf of needy children
19 in foster care under the terms of this division.

20 (b) “Case plan” means a written document that, at a minimum,
21 specifies the type of home in which the child shall be placed, the
22 safety of that home, and the appropriateness of that home to meet
23 the child’s needs. It shall also include the agency’s plan for
24 ensuring that the child receive proper care and protection in a safe
25 environment, and shall set forth the appropriate services to be
26 provided to the child, the child’s family, and the foster parents, in
27 order to meet the child’s needs while in foster care, and to reunify
28 the child with the child’s family. In addition, the plan shall specify
29 the services that will be provided or steps that will be taken to
30 facilitate an alternate permanent plan if reunification is not possible.

31 (c) “Certified family home” means a family residence certified
32 by a licensed foster family agency and issued a certificate of
33 approval by that agency as meeting licensing standards, and used
34 only by that foster family agency for placements.

35 (d) “Family home” means the family residency of a licensee in
36 which 24-hour care and supervision are provided for children.

37 (e) “Small family home” means any residential facility, in the
38 licensee’s family residence, which provides 24-hour care for six
39 or fewer foster children who have mental disorders or

1 developmental or physical disabilities and who require special care
2 and supervision as a result of their disabilities.

3 (f) “Foster care” means the 24-hour out-of-home care provided
4 to children whose own families are unable or unwilling to care for
5 them, and who are in need of temporary or long-term substitute
6 parenting.

7 (g) “Foster family agency” means any individual or organization
8 engaged in the recruiting, certifying, and training of, and providing
9 professional support to, foster parents, or in finding homes or other
10 places for placement of children for temporary or permanent care
11 who require that level of care as an alternative to a group home.
12 Private foster family agencies shall be organized and operated on
13 a nonprofit basis.

14 (h) “Group home” means a nondetention privately operated
15 residential home, organized and operated on a nonprofit basis only,
16 of any capacity, or a nondetention licensed residential care home
17 operated by the County of San Mateo with a capacity of up to 25
18 beds, that provides services in a group setting to children in need
19 of care and supervision, as required by paragraph (1) of subdivision
20 (a) of Section 1502 of the Health and Safety Code.

21 (i) “Periodic review” means review of a child’s status by the
22 juvenile court or by an administrative review panel, that shall
23 include a consideration of the safety of the child, a determination
24 of the continuing need for placement in foster care, evaluation of
25 the goals for the placement and the progress toward meeting these
26 goals, and development of a target date for the child’s return home
27 or establishment of alternative permanent placement.

28 (j) “Permanency planning hearing” means a hearing conducted
29 by the juvenile court in which the child’s future status, including
30 whether the child shall be returned home or another permanent
31 plan shall be developed, is determined.

32 (k) “Placement and care” refers to the responsibility for the
33 welfare of a child vested in an agency or organization by virtue of
34 the agency or organization having (1) been delegated care, custody,
35 and control of a child by the juvenile court, (2) taken responsibility,
36 pursuant to a relinquishment or termination of parental rights on
37 a child, (3) taken the responsibility of supervising a child detained
38 by the juvenile court pursuant to Section 319 or 636, or (4) signed
39 a voluntary placement agreement for the child’s placement; or to

1 the responsibility designated to an individual by virtue of his or
2 her being appointed the child's legal guardian.

3 (l) "Preplacement preventive services" means services that are
4 designed to help children remain with their families by preventing
5 or eliminating the need for removal.

6 (m) "Relative" means an adult who is related to the child by
7 blood, adoption, or affinity within the fifth degree of kinship,
8 including stepparents, stepsiblings, and all relatives whose status
9 is preceded by the words "great," "great-great," or "grand" or the
10 spouse of any of these persons even if the marriage was terminated
11 by death or dissolution.

12 (n) "Nonrelative extended family member" means an adult
13 caregiver who has an established familial or mentoring relationship
14 with the child, as described in Section 362.7.

15 (o) "Voluntary placement" means an out-of-home placement
16 of a child by (1) the county welfare department, probation
17 department, or Indian tribe that has entered into an agreement
18 pursuant to Section 10553.1, after the parents or guardians have
19 requested the assistance of the county welfare department and have
20 signed a voluntary placement agreement; or (2) the county welfare
21 department licensed public or private adoption agency, or the
22 department acting as an adoption agency, after the parents have
23 requested the assistance of either the county welfare department,
24 the licensed public or private adoption agency, or the department
25 acting as an adoption agency for the purpose of adoption planning,
26 and have signed a voluntary placement agreement.

27 (p) "Voluntary placement agreement" means a written agreement
28 between either the county welfare department, probation
29 department, or Indian tribe that has entered into an agreement
30 pursuant to Section 10553.1, licensed public or private adoption
31 agency, or the department acting as an adoption agency, and the
32 parents or guardians of a child that specifies, at a minimum, the
33 following:

34 (1) The legal status of the child.

35 (2) The rights and obligations of the parents or guardians, the
36 child, and the agency in which the child is placed.

37 (q) "Original placement date" means the most recent date on
38 which the court detained a child and ordered an agency to be
39 responsible for supervising the child or the date on which an agency

1 assumed responsibility for a child due to termination of parental
2 rights, relinquishment, or voluntary placement.

3 (r) (1) “Transitional housing placement provider” means an
4 organization licensed by the State Department of Social Services
5 pursuant to Section 1559.110 of the Health and Safety Code, to
6 provide transitional housing to foster children at least 16 years of
7 age and not more than 18 years of age, and nonminor dependents,
8 as defined in subdivision (v). A transitional housing placement
9 provider shall be privately operated and organized on a nonprofit
10 basis.

11 (2) Prior to licensure, a provider shall obtain certification from
12 the applicable county, in accordance with Section 16522.1.

13 (s) “Transitional Housing Program-Plus” means a provider
14 certified by the applicable county, in accordance with subdivision
15 (c) of Section 16522, to provide transitional housing services to
16 former foster youth who have exited the foster care system on or
17 after their 18th birthday.

18 (t) “Whole family foster home” means a new or existing family
19 home, approved relative caregiver or nonrelative extended family
20 member’s home, the home of a nonrelated legal guardian whose
21 guardianship was established pursuant to Section 360 or 366.26,
22 certified family home, or a host family home placement of a
23 transitional housing placement provider, that provides foster care
24 for a minor or nonminor dependent parent and his or her child,
25 and is specifically recruited and trained to assist the minor or
26 nonminor dependent parent in developing the skills necessary to
27 provide a safe, stable, and permanent home for his or her child.
28 The child of the minor or nonminor dependent parent need not be
29 the subject of a petition filed pursuant to Section 300 to qualify
30 for placement in a whole family foster home.

31 (u) “Mutual agreement” means ~~a~~ *any of the following*:

32 (1) A written voluntary agreement of consent for continued
33 placement and care in a supervised setting between a minor or, on
34 and after January 1, 2012, a nonminor dependent, and the county
35 welfare services or probation department or tribal agency
36 responsible for the foster care placement, that documents the
37 nonminor’s continued willingness to remain in supervised
38 out-of-home placement under the placement and care of the
39 responsible county ~~or tribal agency~~, *tribe, consortium of tribes, or*
40 *tribal organization that has entered into an agreement with the*

1 *state pursuant to Section 10553.1, remain under the jurisdiction*
2 *of the juvenile court as a nonminor dependent, and report any*
3 *change of circumstances relevant to continued eligibility for foster*
4 *care payments, and that documents the nonminor's and social*
5 *worker's or probation officer's agreement to work together to*
6 *facilitate implementation of the mutually developed supervised*
7 *placement agreement and transitional independent living case plan.*

8 *(2) An agreement, as described in paragraph (1), between a*
9 *nonminor former dependent or ward in receipt of Kin-GAP*
10 *payments under Article 4.5 (commencing with Section 11360) or*
11 *Article 4.7 (commencing with Section 11385), and the agency*
12 *responsible for the Kin-GAP benefits, provided that the nonminor*
13 *former dependent or ward satisfies the conditions described in*
14 *Section 11403.01, or one or more of the conditions described in*
15 *paragraphs (1) to (5), inclusive, of subdivision (b) of Section*
16 *11403. For purposes of this paragraph and paragraph (3),*
17 *"nonminor former dependent or ward" has the same meaning as*
18 *described in subdivision (aa).*

19 *(3) An agreement, as described in paragraph (1), between a*
20 *nonminor former dependent or ward in receipt of AFDC-FC*
21 *payments under subdivision (e) or (f) of Section 11405 and the*
22 *agency responsible for the AFDC-FC benefits, provided that the*
23 *nonminor former dependent or ward described in subdivision (e)*
24 *of Section 11405 satisfies one or more of the conditions described*
25 *in paragraphs (1) to (5), inclusive, of subdivision (b) of Section*
26 *11403, and the nonminor described in subdivision (f) of Section*
27 *11405 satisfies the secondary school or equivalent training or*
28 *certificate program conditions described in that subdivision.*

29 *(v) "Nonminor dependent" means, on and after January 1, 2012,*
30 *a foster child, as described in Section 675(8)(B) of Title 42 of the*
31 *United States Code under the federal Social Security Act who is*
32 *a current dependent child or ward of the juvenile court, or a*
33 *nonminor under the transition jurisdiction of the juvenile court, as*
34 *described in Section 450, who satisfies all of the following criteria:*

35 *(1) He or she has attained 18 years of age while under an order*
36 *of foster care placement by the juvenile court, and is not more than*
37 *19 years of age on or after January 1, 2012, not more than 20 years*
38 *of age on or after January 1, 2013, or not more than 21 years of*
39 *age on or after January 1, 2014, and as described in Section*
40 *10103.5.*

(2) He or she is in foster care under the placement and care responsibility of the county welfare department, county probation department, ~~or~~ Indian tribe, *consortium of tribes, or tribal organization* that entered into an agreement pursuant to Section 10553.1.

(3) He or she is participating in a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403.

(w) “Supervised independent living placement” means, on and after January 1, 2012, an independent supervised setting, as specified in a nonminor dependent’s transitional independent living case plan, in which the youth is living independently, pursuant to Section 472(c)(2) of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

(x) “Supervised independent living setting,” pursuant to Section 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec. 672(c)(2)), includes both a supervised independent living placement, as defined in subdivision (w), and a residential housing unit certified by the transitional housing placement provider operating a Transitional Housing Placement-Plus Foster Care program, as described in paragraph (2) of subdivision (a) of Section 16522.1.

(y) “Transitional independent living case plan” means, on or after January 1, 2012, the nonminor dependent’s case plan, updated every six months, that describes the goals and objectives of how the nonminor will make progress in the transition to living independently and assume incremental responsibility for adult decisionmaking, the collaborative efforts between the nonminor and the social worker, probation officer, or Indian-~~tribe~~ *tribal placing entity* and the supportive services as described in the transitional independent living plan (TILP) to ensure active and meaningful participation in one or more of the eligibility criteria described in *paragraphs (1) to (5), inclusive, of* subdivision (b) of Section 11403, the nonminor’s appropriate supervised placement setting, and the nonminor’s permanent plan for transition to living independently, which includes maintaining or obtaining permanent connections to caring and committed adults, as set forth in paragraph (16) of subdivision (f) of Section 16501.1.

1 (z) “Voluntary reentry agreement” means a written voluntary
2 agreement between a former dependent child or ward or a former
3 nonminor dependent, who has had juvenile court jurisdiction
4 terminated pursuant to Section 391, 452 or 607.2, and the county
5 welfare or probation department or tribal placing-agency *entity*
6 that documents the nonminor’s desire and willingness to reenter
7 foster care, to be placed in a supervised setting under the placement
8 and care responsibility of the placing agency, the nonminor’s
9 desire, willingness, and ability to immediately participate in one
10 or more of the conditions of paragraphs (1) to (5), inclusive, of
11 subdivision (b) of Section 11403, the nonminor’s agreement to
12 work collaboratively with the placing agency to develop his or her
13 transitional independent living case plan within 60 days of reentry,
14 the nonminor’s agreement to report any changes of circumstances
15 relevant to continued eligibility for foster care payments, and (1)
16 the nonminor’s agreement to participate in the filing of a petition
17 for juvenile court jurisdiction as a nonminor dependent pursuant
18 to subdivision (e) of Section 388 within 15 judicial days of the
19 signing of the agreement and the placing agency’s efforts and
20 supportive services to assist the nonminor in the reentry process,
21 *or (2) if the nonminor meets the definition of a nonminor former*
22 *dependent or ward, as described in subdivision (aa), the*
23 *nonminor’s agreement to return to the care and support of his or*
24 *her former juvenile court-appointed guardian and meet the*
25 *eligibility criteria for AFDC-FC pursuant to subdivision (e) of*
26 *Section 11405.*

27 (aa) “Nonminor former dependent or ward” means, on and
28 after January 1, 2012, either of the following:

29 (1) A nonminor who reached 18 years of age while subject to
30 an order for foster care placement, and for whom dependency,
31 delinquency, or transition jurisdiction has been terminated, and
32 who is still under the general jurisdiction of the court.

33 (2) A nonminor who is over 18 years of age and, while a minor,
34 was a dependent child or ward of the juvenile court when the
35 guardianship was established pursuant to Section 360 or 366.26,
36 or subdivision (d), of Section 728 and the juvenile court
37 dependency or wardship was dismissed following the establishment
38 of the guardianship.

1 ~~SEC. 48.~~

2 ~~SEC. 46.~~ Section 11402.2 of the Welfare and Institutions Code
3 is amended to read:

4 11402.2. Recognizing that transitions to independence involve
5 self-initiated changes in placements, it is the intent of the
6 Legislature that regulations developed regarding the approval of
7 the supervised independent living setting, as defined in subdivision
8 (w) of Section 11400, shall ensure continuity of placement and
9 payment while the nonminor dependent is awaiting approval of
10 his or her new supervised independent living setting, in accordance
11 with paragraph (2) of subdivision (c) of Section 1524 of the Health
12 and Safety Code.

13 ~~SEC. 49.~~ ~~Section 11403 of the Welfare and Institutions Code~~
14 ~~is amended to read:~~

15 ~~11403. (a) (1) It is the intent of the Legislature to exercise the~~
16 ~~option afforded states under Section 475(8) (42 U.S.C. Sec.~~
17 ~~675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the~~
18 ~~federal Social Security Act, as contained in the federal Fostering~~
19 ~~Connections to Success and Increasing Adoptions Act of 2008~~
20 ~~(Public Law 110-351), to receive federal financial participation~~
21 ~~for nonminor dependents of the juvenile court who satisfy the~~
22 ~~conditions of subdivision (b), consistent with their transitional~~
23 ~~independent living case plan. Effective January 1, 2012, these~~
24 ~~nonminor dependents shall be eligible to receive support up to 19~~
25 ~~years of age, effective January 1, 2013, up to 20 years of age, and~~
26 ~~effective January 1, 2014, up to 21 years of age, consistent with~~
27 ~~their transitional independent living case plan. It is the intent of~~
28 ~~the Legislature both at the time of initial determination of the~~
29 ~~nonminor dependent's eligibility and throughout the time the~~
30 ~~nonminor dependent is eligible for aid pursuant to this section,~~
31 ~~that the social worker or probation officer or Indian tribe and the~~
32 ~~nonminor dependent shall work together to ensure the nonminor~~
33 ~~dependent's ongoing eligibility. All case planning shall be a~~
34 ~~collaborative effort between the nonminor dependent and the social~~
35 ~~worker, probation officer, or Indian tribe, with the nonminor~~
36 ~~dependent assuming increasing levels of responsibility and~~
37 ~~independence.~~

38 ~~(2) Notwithstanding paragraph (1), a nonminor dependent who~~
39 ~~has been receiving aid pursuant to this article between January 1,~~
40 ~~2012, and December 31, 2012, and who attains 19 years of age~~

1 prior to January 1, 2013, may continue to receive aid,
2 notwithstanding the age limitations in this subdivision, provided
3 that the nonminor dependent continues to meet all other eligibility
4 requirements.

5 (b) (1) A nonminor dependent receiving aid pursuant to this
6 chapter, who satisfies the age criteria set forth in subdivision (a),
7 shall meet the legal authority for placement and care by being
8 under a foster care placement order by the juvenile court, or the
9 voluntary reentry agreement as set forth in subdivision (z) of
10 Section 11400, and is otherwise eligible for AFDC-FC payments
11 pursuant to Section 11401. A nonminor who satisfies the age
12 criteria set forth in subdivision (a), and who is otherwise eligible,
13 shall continue to receive CalWORKs payments pursuant to Section
14 11253 or, as a nonminor former dependent or ward, aid pursuant
15 to Kin-GAP under Article 4.5 (commencing with Section 11360)
16 or Article 4.7 (commencing with Section 11385) or adoption
17 assistance payments as specified in Chapter 2.1 (commencing with
18 Section 16115) of Part 4. Effective January 1, 2012, a nonminor
19 former dependent child or ward of the juvenile court who is
20 receiving AFDC-FC benefits pursuant to Section 11405 shall be
21 eligible to continue to receive aid up to 19 years of age, effective
22 January 1, 2013, up to 20 years of age, and effective January 1,
23 2014, up to 21 years of age, as long as the nonminor is otherwise
24 eligible for AFDC-FC benefits under this subdivision.

25 (2) Notwithstanding paragraph (1), a nonminor dependent who
26 has been receiving aid pursuant to this article between January 1,
27 2012, and December 31, 2012, and who attains 19 years of age
28 prior to January 1, 2013, may continue to receive aid,
29 notwithstanding the age limitations in paragraph (1), provided that
30 the nonminor dependent continues to meet all other eligibility
31 requirements.

32 (3) This subdivision shall apply when one or more of the
33 following conditions exist:

34 (A) The nonminor is completing secondary education or a
35 program leading to an equivalent credential.

36 (B) The nonminor is enrolled in an institution which provides
37 postsecondary or vocational education.

38 (C) The nonminor is participating in a program or activity
39 designed to promote, or remove barriers to, employment.

40 (D) The nonminor is employed for at least 80 hours per month.

1 ~~(E) The nonminor is incapable of doing any of the activities~~
2 ~~described in subparagraphs (A) to (D), inclusive, due to a medical~~
3 ~~condition, and that incapability is supported by regularly updated~~
4 ~~information in the case plan of the nonminor. The requirement to~~
5 ~~update the case plan under this section shall not apply to nonminor~~
6 ~~former dependents or wards in receipt of Kin-GAP program or~~
7 ~~Adoption Assistance Program payments.~~

8 ~~(c) The county child welfare or probation department or Indian~~
9 ~~tribe that has entered into an agreement pursuant to Section~~
10 ~~10553.1, shall work together with a nonminor dependent who is~~
11 ~~in foster care on his or her 18th birthday and thereafter or a~~
12 ~~nonminor former dependent receiving aid pursuant to Section~~
13 ~~11405, to satisfy one or more of the conditions described in~~
14 ~~subparagraphs (A) to (E), inclusive, of paragraph (3) of subdivision~~
15 ~~(b) and shall certify the nonminor's applicable condition or~~
16 ~~conditions in the nonminor's six-month transitional independent~~
17 ~~living case plan update, and provide the certification to the~~
18 ~~eligibility worker and to the court at each six-month case plan~~
19 ~~review hearing for the nonminor dependent. Relative guardians~~
20 ~~who receive Kin-GAP payments and adoptive parents who receive~~
21 ~~adoption assistance payments shall be responsible for reporting to~~
22 ~~the county welfare agency that the nonminor does not satisfy at~~
23 ~~least one of the conditions described in subdivision (b). The social~~
24 ~~worker, probation officer, or tribe shall verify and obtain assurances~~
25 ~~that the nonminor dependent continues to satisfy at least one of~~
26 ~~the conditions in subparagraphs (A) to (E), inclusive, of paragraph~~
27 ~~(3) of subdivision (b) at each six-month transitional independent~~
28 ~~living case plan update. The six-month case plan update shall~~
29 ~~certify the nonminor's eligibility pursuant to subdivision (b) for~~
30 ~~the next six-month period. During the six-month certification~~
31 ~~period, the payee and nonminor shall report any change in~~
32 ~~placement or other relevant changes in circumstances that may~~
33 ~~affect payment. The nonminor dependent or nonminor former~~
34 ~~dependent receiving aid pursuant to Section 11405 shall be~~
35 ~~informed of all due process requirements, in accordance with state~~
36 ~~and federal law, prior to an involuntary termination of aid, and~~
37 ~~shall simultaneously be provided with a written explanation of~~
38 ~~how to exercise his or her due process rights and obtain referrals~~
39 ~~to legal assistance. Any notices of action regarding eligibility shall~~

1 be sent to the nonminor dependent or former dependent, his or her
2 counsel, and the placing worker, in addition to any other payee.

3 ~~(d) A nonminor dependent may receive all of the payment~~
4 ~~directly provided that the nonminor is living independently in a~~
5 ~~supervised setting, and that both the youth and the agency~~
6 ~~responsible for the foster care placement have signed a mutual~~
7 ~~agreement, as defined in subdivision (u) of Section 11400, if the~~
8 ~~youth is capable of making an informed agreement, that documents~~
9 ~~the continued need for supervised out-of-home placement, and the~~
10 ~~nonminor's and social worker's or probation officer's agreement~~
11 ~~to work together to facilitate implementation of the mutually~~
12 ~~developed supervised placement agreement and transitional~~
13 ~~independent living case plan.~~

14 ~~(e) Eligibility for aid under this section shall not terminate until~~
15 ~~the nonminor attains the age criteria, as set forth in subdivision~~
16 ~~(a), but aid may be suspended when the nonminor no longer resides~~
17 ~~in an eligible facility, as described in Section 11402, or is otherwise~~
18 ~~not eligible for AFDC-FC benefits pursuant to Section 11401, or~~
19 ~~the aid may be terminated at the request of the nonminor or after~~
20 ~~a court terminates dependency jurisdiction pursuant to Section~~
21 ~~391, delinquency jurisdiction pursuant to Section 607.2, or~~
22 ~~transition jurisdiction pursuant to Section 452. Aid may be resumed~~
23 ~~at the request of the nonminor by completing a voluntary reentry~~
24 ~~agreement pursuant to subdivision (z) of Section 11400, before or~~
25 ~~after the filing of a petition pursuant to subdivision (c) of Section~~
26 ~~388 or after a court terminates dependency jurisdiction pursuant~~
27 ~~to Section 391, or delinquency jurisdiction pursuant to Section~~
28 ~~607.2. The county welfare or probation department or Indian tribe~~
29 ~~that has entered into an agreement pursuant to Section 10553.1~~
30 ~~shall complete the voluntary reentry agreement with the nonminor~~
31 ~~who agrees to satisfy the criteria of the agreement, as described in~~
32 ~~subdivision (z) of Section 11400. The county welfare department~~
33 ~~shall establish a new child-only Title IV-E eligibility determination~~
34 ~~based on the nonminor's completion of the voluntary reentry~~
35 ~~agreement pursuant to Section 11401. The beginning date of aid~~
36 ~~for either federal or state AFDC-FC for a reentering nonminor~~
37 ~~who is placed in foster care is the date the voluntary reentry~~
38 ~~agreement is signed. The county welfare department, tribe, or~~
39 ~~county probation department shall provide a nonminor dependent~~

1 who wishes to continue receiving aid with the assistance necessary
2 to meet and maintain eligibility.

3 ~~(f) (1) The county having jurisdiction of the nonminor~~
4 ~~dependent shall remain the county of payment under this section~~
5 ~~regardless of the youth's physical residence. Nonminor, former~~
6 ~~dependents receiving aid pursuant to Section 11405 shall be paid~~
7 ~~by their county of residence. Counties may develop courtesy~~
8 ~~supervision agreements to provide case management and~~
9 ~~independent living services by the county of residence pursuant~~
10 ~~to the youth's transitional independent living case plan. Placements~~
11 ~~made out of state are subject to the requirements of the Interstate~~
12 ~~Compact on Placement of Children, pursuant to Part 5~~
13 ~~(commencing with Section 7900) of Division 12 of the Family~~
14 ~~Code.~~

15 ~~(2) The county welfare department, tribe, or county probation~~
16 ~~department shall notify all foster youth who attain 16 years of age~~
17 ~~and are under the jurisdiction of that county or tribe, including~~
18 ~~those receiving Kin-GAP, and AAP, of the existence of the aid~~
19 ~~prescribed by this section.~~

20 ~~(3) The department shall seek any waiver to amend its Title~~
21 ~~IV-E State Plan with the Secretary of the United States Department~~
22 ~~of Health and Human Services necessary to implement this section.~~

23 ~~(g) (1) Subject to paragraph (3), a county shall contribute to~~
24 ~~the cost of extending aid pursuant to this section to eligible~~
25 ~~nonminor dependents who have reached 18 years of age and who~~
26 ~~are under the jurisdiction of the county, including AFDC-FC~~
27 ~~payments pursuant to Section 11401, CalWORKs payments~~
28 ~~pursuant to Section 11253, aid pursuant to Kin-GAP under Article~~
29 ~~4.5 (commencing with Section 11360) or Article 4.7 (commencing~~
30 ~~with Section 11385), adoption assistance payments as specified~~
31 ~~in Chapter 2.1 (commencing with Section 16115) of Part 4, and~~
32 ~~aid pursuant to Section 11405 for nonminor dependents who are~~
33 ~~residing in the county as provided in paragraph (1) of subdivision~~
34 ~~(f), at the statutory sharing ratios for each of these programs in~~
35 ~~effect on January 1, 2012.~~

36 ~~(2) Subject to paragraph (3), a county shall contribute to the~~
37 ~~cost of providing permanent placement services pursuant to~~
38 ~~subdivision (c) of Section 16508 and administering the Aid to~~
39 ~~Families with Dependent Children Foster Care program pursuant~~
40 ~~to Section 15204.9 at the statutory sharing ratio for these services~~

1 in effect on January 1, 2012. For purposes of budgeting, the
2 department shall use a standard for the permanent placement
3 services that is equal to the midpoint between the budgeting
4 standards for family maintenance services and family reunification
5 services.

6 (3) Notwithstanding any other provision of law, a county's total
7 contribution pursuant to paragraphs (1) and (2) shall not exceed
8 the savings in Kin-GAP assistance grant expenditures realized by
9 the county from the receipt of federal funds due to the
10 implementation of Article 4.7 (commencing with Section 11385).
11 The department shall work with the County Welfare Directors
12 Association to determine a methodology for calculating each
13 county's costs and savings pursuant to this section.

14 (h) It is the intent of the Legislature that no county currently
15 participating in the Child Welfare Demonstration Capped
16 Allocation Project be adversely impacted by the department's
17 exercise of its option to extend foster care benefits pursuant to
18 Section 673(a)(4) and Section 675(8) of Title 42 of the United
19 States Code in the federal Social Security Act, as contained in the
20 Fostering Connections to Success and Increasing Adoptions Act
21 of 2008 (Public Law 110-351). Therefore, the department shall
22 negotiate with the United States Department of Health and Human
23 Services on behalf of those counties that are currently participating
24 in the demonstration project to ensure that those counties receive
25 reimbursement for these new programs outside of the provisions
26 of those counties' waiver under Subtitle IV-E (commencing with
27 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
28 670 et seq.).

29 (i) The department, on or before July 1, 2012, shall develop
30 regulations to implement this section in consultation with
31 concerned stakeholders, including, but not limited to,
32 representatives of the Legislature, the County Welfare Directors
33 Association, the Chief Probation Officers of California, the Judicial
34 Council, representatives of Indian tribes, the California Youth
35 Connection, former foster youth, child advocacy organizations,
36 labor organizations, juvenile justice advocacy organizations, foster
37 caregiver organizations, and researchers. In the development of
38 these regulations, the department shall consider its Manual of
39 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
40 and 917, as guidelines for developing regulations that are

1 appropriate for young adults who can exercise incremental
2 responsibility concurrently with their growth and development.
3 The department, in its consultation with stakeholders, shall take
4 into consideration the impact to the Automated Child Welfare
5 Services Case Management Services (CWS-CMS) and required
6 modifications needed to accommodate eligibility determination
7 under this section, benefit issuance, case management across
8 counties, and recognition of the legal status of nonminor
9 dependents as adults, as well as changes to data tracking and
10 reporting requirements as required by the Child Welfare System
11 Improvement and Accountability Act as specified in Section
12 10601.2, and federal outcome measures as required by the John
13 H. Chafee Foster Care Independence Program (42 U.S.C. Sec.
14 677(f)). In addition, the department, in its consultation with
15 stakeholders, shall define the supervised independent living setting
16 which shall include, but not be limited to, apartment living, room
17 and board arrangements, college or university dormitories, and
18 shared roommate settings, and define how those settings meet
19 health and safety standards suitable for nonminors. The department,
20 in its consultation with stakeholders, shall define the six-month
21 certification of the conditions of eligibility pursuant to subdivision
22 (b) to be consistent with the flexibility provided by federal policy
23 guidance, to ensure that there are ample supports for a nonminor
24 to achieve the goals of his or her transitional independent living
25 case plan. The department, in its consultation with stakeholders,
26 shall ensure that notices of action and other forms created to inform
27 the nonminor of due process rights and how to access them shall
28 be developed, using language consistent with the special needs of
29 the nonminor dependent population.

30 (j) Notwithstanding the Administrative Procedure Act, Chapter
31 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
32 Title 2 of the Government Code, the department shall prepare for
33 implementation of the applicable provisions of this section by
34 publishing, after consultation with the stakeholders listed in
35 subdivision (i), all-county letters or similar instructions from the
36 director by October 1, 2011, to be effective January 1, 2012.
37 Emergency regulations to implement the applicable provisions of
38 this act may be adopted by the director in accordance with the
39 Administrative Procedure Act. The initial adoption of the
40 emergency regulations and one readoption of the emergency

1 regulations shall be deemed to be an emergency and necessary for
2 the immediate preservation of the public peace, health, safety, or
3 general welfare. Initial emergency regulations and the first
4 readoption of those emergency regulations shall be exempt from
5 review by the Office of Administrative Law. The emergency
6 regulations authorized by this section shall be submitted to the
7 Office of Administrative Law for filing with the Secretary of State
8 and shall remain in effect for no more than 180 days.

9 (k) Notwithstanding any other provision of law, the extension
10 of benefits to nonminor dependents between 20 and 21 years of
11 age, as provided for in this section, shall be contingent upon an
12 appropriation by the Legislature.

13 (l) This section shall become operative on January 1, 2012.

14 SEC. 50. Section 11403.2 of the Welfare and Institutions Code
15 is amended to read:

16 11403.2. (a) The following persons shall be eligible for
17 transitional housing placement program services provided pursuant
18 to Article 4 (commencing with Section 16522) of Chapter 5 of
19 Part 4:

20 (1) Any minor at least 16 years of age and not more than 18
21 years of age, and, on or after January 1, 2012, any nonminor
22 dependent who is less than 19 years of age, who is eligible for
23 AFDC-FC benefits and whose best interests are met by remaining
24 in the program as a nonminor dependent, in order to complete high
25 school or its equivalent, or to finish the high school year prior to
26 his or her 19th birthday, and who also meets the requirements in
27 Section 16522.2.

28 (2) Any person less than 24 years of age who has emancipated
29 from a county that has elected to participate in a transitional
30 housing placement program for youths who are at least 18 years
31 of age and under 24 years of age, as described in subdivision (r)
32 of Section 11400, provided he or she has not received services
33 under this paragraph for more than a total of 24 months, whether
34 or not consecutive. If the person participating in a transitional
35 housing placement program is not receiving aid under Section
36 11403.1, he or she, as a condition of participation, shall enter into,
37 and execute the provisions of, a Transitional Independent Living
38 Case Plan that shall be mutually agreed upon, and annually
39 reviewed, by the emancipated foster youth and the county welfare
40 or probation department or independent living program coordinator.

1 The youth participating under this paragraph shall inform the
2 county of any changes to conditions specified in the agreed-upon
3 plan that affect eligibility, including changes in address, living
4 circumstances, and the educational or training program.

5 (3) It is the intent of the Legislature to create a new placement
6 option, known as THP-Plus Foster Care. On and after January 1,
7 2012, THP-Plus Foster Care, as described in subdivision (x) of
8 Section 11400, is an eligible facility for purposes of AFDC-FC
9 payments for placement of nonminor dependents, and shall offer
10 the same housing models and supportive services as are available
11 through the standard THP-Plus program available to emancipated
12 foster youths pursuant to paragraph (2). In creating the new
13 THP-Plus Foster Care placement option, it is the intent of the
14 Legislature to preserve the THP-Plus program, as it is described
15 in subdivision (e) of Section 1559.110 of the Health and Safety
16 Code, for former emancipated foster youth who have attained 21
17 years of age, but are under 24 years of age, and for former
18 emancipated foster youth who have attained 18 years of age but
19 are under 21 years of age, whose dependency or delinquency
20 jurisdiction has been terminated by the court, and for whom reentry
21 into foster care under subdivision (e) of Section 388 is not an
22 appropriate or viable option.

23 (4) (A) On and after January 1, 2012, any nonminor dependent
24 at least 18 years of age, and up to 19 years of age, effective January
25 1, 2013, up to 20 years of age, and effective January 1, 2014, up
26 to 21 years of age, as described in subdivision (v) of Section 11400,
27 pursuant to subdivision (x) of Section 11400, and who is eligible
28 pursuant to subdivision (b) of Section 11403.

29 (B) Notwithstanding subparagraph (A), a nonminor dependent
30 who has been receiving aid pursuant to this article between January
31 1, 2012, and December 31, 2012, and who attains 19 years of age
32 prior to January 1, 2013, may continue to receive aid,
33 notwithstanding the age limitations in this paragraph, provided
34 that the nonminor dependent continues to meet all other eligibility
35 requirements.

36 (b) Payment on behalf of an eligible person receiving transitional
37 housing services pursuant to paragraph (1) of subdivision (a) shall
38 be made to the transitional housing placement program pursuant
39 to the conditions and limitations set forth in Section 11403.3.
40 Notwithstanding Section 11403.3, the department, in consultation

1 with concerned stakeholders, including, but not limited to,
2 representatives of the Legislature, the County Welfare Directors
3 Association, the Chief Probation Officers of California, the Judicial
4 Council, representatives of Indian tribes, the California Youth
5 Connection, former foster youth, child advocacy organizations,
6 labor organizations, juvenile justice advocacy organizations, foster
7 caregiver organizations, researchers, and transitional housing
8 program providers, shall convene a workgroup to establish a new
9 rate structure for the Title IV-E funded THP-Plus Foster Care
10 placement option for nonminor dependents. The workgroup shall
11 also consider application of this new rate structure to the
12 transitional housing placement program, as described in paragraph
13 (2) of subdivision (a) of Section 11403.3. In developing the new
14 rate structure pursuant to this subdivision, the department shall
15 consider the average rates in effect and being paid by counties to
16 current transitional housing placement programs.

17 (e) (1) For budgeting purposes, and to achieve the intent of the
18 Legislature as described in paragraph (3) of subdivision (a), the
19 department, in consultation with stakeholders and pursuant to
20 subdivision (e) of Section 11403.3, shall direct counties that opt
21 to participate in the THP-Plus in addition to the THP-Plus Foster
22 Care to establish a goal of allocating 70 percent of the amount
23 payable to placements of nonminor dependents under the THP-Plus
24 Foster Care program. The remaining 30 percent of the amount
25 payable shall be available for THP-Plus placement for both those
26 former emancipated foster youth who have attained 21 years of
27 age, but are under 24 years of age, and for former emancipated
28 foster youth who have attained 18 years of age but who are under
29 21 years of age, whose dependency or delinquency jurisdiction
30 has been terminated by the court, and for whom reentry into foster
31 care under subdivision (e) of Section 388 is not an appropriate or
32 viable option. If a county can demonstrate that there is insufficient
33 demand in either the THP-Plus or THP-Plus Foster Care program
34 for the county to achieve the goal of allocating 70 percent of the
35 combined allocation to THP-Plus Foster Care participants and 30
36 percent to THP-Plus participants for those counties who opt to
37 participate in THP-Plus, the county may reallocate funds between
38 THP-Plus and THP-Plus Foster Care in order to meet the existing
39 demand within the county.

~~(2) Each county shall submit to the department a plan that sets forth how the county will provide for the THP-Plus Foster Care population, and, if opting for the THP-Plus, assurances that 30 percent of the placements will be set aside for the THP-Plus population. The county plan for each county that opts to participate in both THP-Plus and THP-Plus Foster Care shall also include a contingency for how both THP-Plus and THP-Plus Foster Care placements will be reallocated in the event that there is not sufficient demand in either the THP-Plus Foster Care Program or the THP-Plus programs to fill the beds allocated for these populations.~~

~~(3) It is the intent of the Legislature that counties opting out of the THP-Plus program are to receive funding based on their operation of THP-Plus Foster Care only. The department shall develop a mechanism to implement this provision.~~

~~(4) Counties shall be allowed a reasonable period of time to achieve the goal described in paragraph (1). Counties shall not be required to suspend new admissions of eligible participants into the THP-Plus program for any period of time in order to reach the goal described in paragraph (1).~~

~~SEC. 51. Section 11403.25 of the Welfare and Institutions Code is repealed.~~

SEC. 47. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. (a) It is the intent of the Legislature to exercise the option afforded states under Section 475(8) (42 U.S.C. Sec. 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), to receive federal financial participation for nonminor dependents of the juvenile court who satisfy the conditions of subdivision (b), consistent with their transitional independent living case plan. Effective January 1, 2012, these nonminor dependents shall be eligible to receive support up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, consistent with their transitional independent living case plan *and as described in Section 10103.5*. It is the intent of the Legislature both at the time of initial determination of the nonminor dependent's eligibility and throughout the time the nonminor dependent is eligible for aid

1 pursuant to this section, that the social worker or probation officer
2 or Indian ~~tribe~~ *tribal placing entity* and the nonminor dependent
3 shall work together to ensure the nonminor dependent's ongoing
4 eligibility. All case planning shall be a collaborative effort between
5 the nonminor dependent and the social worker, probation officer,
6 or Indian tribe, with the nonminor dependent assuming increasing
7 levels of responsibility and independence.

8 (b) A nonminor dependent receiving aid pursuant to this chapter,
9 who satisfies the age criteria set forth in subdivision (a), shall meet
10 the legal authority for placement and care by being under a foster
11 care placement order by the juvenile court, or the voluntary reentry
12 agreement as set forth in subdivision (z) of Section 11400, and is
13 otherwise eligible for AFDC-FC payments pursuant to Section
14 11401. A nonminor who satisfies the age criteria set forth in
15 subdivision (a), and who is otherwise eligible, shall continue to
16 receive CalWORKs payments pursuant to Section 11253 or, as a
17 nonminor former dependent or ward, aid pursuant to Kin-GAP
18 under Article 4.5 (commencing with Section 11360) or Article 4.7
19 (commencing with Section 11385) or adoption assistance payments
20 as specified in Chapter 2.1 (commencing with Section 16115) of
21 Part 4. Effective January 1, 2012, a nonminor former dependent
22 child or ward of the juvenile court who is receiving AFDC-FC
23 benefits pursuant to Section 11405 *and who satisfies the criteria*
24 *set forth in subdivision (a)* shall be eligible to continue to receive
25 ~~aid up to 19 years of age, effective January 1, 2013, up to 20 years~~
26 ~~of age, and effective January 1, 2014, up to 21 years of age,~~ as
27 long as the nonminor is otherwise eligible for AFDC-FC benefits
28 under this subdivision. This subdivision shall apply when one or
29 more of the following conditions exist:

30 (1) The nonminor is completing secondary education or a
31 program leading to an equivalent credential.

32 (2) The nonminor is enrolled in an institution which provides
33 postsecondary or vocational education.

34 (3) The nonminor is participating in a program or activity
35 designed to promote, or remove barriers to employment.

36 (4) The nonminor is employed for at least 80 hours per month.

37 (5) The nonminor is incapable of doing any of the activities
38 described in subparagraphs (1) to (4), inclusive, due to a medical
39 condition, and that incapability is supported by regularly updated
40 information in the case plan of the nonminor. The requirement to

1 update the case plan under this ~~paragraph~~ *section* shall not apply
2 to nonminor former dependents or wards in receipt of Kin-GAP
3 program or Adoption Assistance Program payments.

4 (c) The county child welfare or probation department ~~or~~, Indian
5 tribe, *consortium of tribes*, or *tribal organization* that has entered
6 into an agreement pursuant to Section 10553.1, shall work together
7 with a nonminor dependent who is in foster care on his or her 18th
8 birthday and thereafter or a nonminor former dependent receiving
9 aid pursuant to Section 11405, to satisfy one or more of the
10 conditions described in paragraphs (1) to (5), inclusive, of
11 subdivision (b) and shall certify the nonminor's applicable
12 condition or conditions in the nonminor's six-month transitional
13 independent living case plan update, and provide the certification
14 to the eligibility worker and to the court at each six-month case
15 plan review hearing for the nonminor dependent. Relative
16 guardians who receive Kin-GAP payments and adoptive parents
17 who receive adoption assistance payments shall be responsible for
18 reporting to the county welfare agency that the nonminor does not
19 satisfy at least one of the conditions described in subdivision (b).
20 The social worker, probation officer, or ~~tribe~~ *tribal entity* shall
21 verify and obtain assurances that the nonminor dependent continues
22 to satisfy at least one of the conditions in paragraphs (1) to (5),
23 inclusive, of subdivision (b) at each six-month transitional
24 independent living case plan update. The six-month case plan
25 update shall certify the nonminor's eligibility pursuant to
26 subdivision (b) for the next six-month period. During the six-month
27 certification period, the payee and nonminor shall report any
28 change in placement or other relevant changes in circumstances
29 that may affect payment. The nonminor dependent, or nonminor
30 former dependent receiving aid pursuant to ~~Section 11405~~
31 *subdivision (e) of Section 11405*, shall be informed of all due
32 process requirements, in accordance with state and federal law,
33 prior to an involuntary termination of aid, and shall simultaneously
34 be provided with a written explanation of how to exercise his or
35 her due process rights and obtain referrals to legal assistance. Any
36 notices of action regarding eligibility shall be sent to the nonminor
37 dependent or former dependent, his or her counsel, *as applicable*,
38 and the placing worker, in addition to any other payee. *Payments*
39 *of aid pursuant to Kin-GAP under Article 4.5 (commencing with*
40 *Section 11360) or Article 4.7 (commencing with Section 11385),*

1 *adoption assistance payments as specified in Chapter 2.1*
2 *(commencing with Section 16115) of Part 4, or aid pursuant to*
3 *subdivision (e) of Section 11405 that are made on behalf of a*
4 *nonminor former dependent shall terminate subject to the terms*
5 *of the agreements. Subject to federal approval of amendments to*
6 *the state plan, aid payments may be suspended and resumed based*
7 *on changes of circumstances that affect eligibility. Nonminor*
8 *former dependents are not eligible for reentry under subdivision*
9 *(e) of Section 388 as nonminor dependents under the jurisdiction*
10 *of the juvenile court. Nonminor former dependents requesting the*
11 *resumption of AFDC-FC payments pursuant to subdivision (e) of*
12 *Section 11405 shall complete the applicable portions of the*
13 *voluntary reentry agreement, as described in subdivision (z) of*
14 *Section 11400.*

15 (d) A nonminor dependent may receive all of the payment
16 directly provided that the nonminor is living independently in a
17 supervised ~~setting~~ placement, as described in subdivision (w) of
18 Section 11400, and that both the youth and the agency responsible
19 for the foster care placement have signed a mutual agreement, as
20 defined in subdivision (u) of Section 11400, if the youth is capable
21 of making an informed agreement, that documents the continued
22 need for supervised out-of-home placement, and the nonminor's
23 and social worker's or probation officer's agreement to work
24 together to facilitate implementation of the mutually developed
25 supervised placement agreement and transitional independent
26 living case plan.

27 (e) Eligibility for aid under this section shall not terminate until
28 the nonminor *dependent* attains the age criteria, as set forth in
29 subdivision (a), but aid may be suspended when the nonminor
30 *dependent* no longer resides in an eligible facility, as described in
31 Section 11402, *or is otherwise not eligible for AFDC-FC benefits*
32 *under Section 11401*, or terminated at the request of the nonminor,
33 or after a court terminates dependency jurisdiction pursuant to
34 Section 391, delinquency jurisdiction pursuant to Section 607.2,
35 or transition jurisdiction pursuant to Section 452. ~~Aid AFDC-FC~~
36 ~~benefits to nonminor dependents~~, may be resumed at the request
37 of the nonminor by completing a voluntary reentry agreement
38 pursuant to subdivision (z) of Section 11400, ~~followed by, or~~
39 ~~concurrently with, before or after the filing of a petition filed~~
40 pursuant to subdivision (e) of Section 388 ~~or after a court~~

1 terminates dependency *or transitional* jurisdiction pursuant to
2 Section 391, or delinquency jurisdiction pursuant to Section 607.2.
3 The county welfare or probation department or Indian-~~tribe~~ *tribal*
4 *entity* that has entered into an agreement pursuant to Section
5 10553.1 shall complete the voluntary reentry agreement with the
6 nonminor who agrees to satisfy the criteria of the agreement, as
7 described in subdivision (z) of Section 11400. The county welfare
8 department *or tribal entity* shall establish a new child-only Title
9 IV-E eligibility determination based on the nonminor's completion
10 of the voluntary reentry agreement pursuant to Section 11401. The
11 beginning date of aid for either federal or state AFDC-FC for a
12 reentering nonminor who is placed in foster care is the date the
13 voluntary reentry agreement is signed *or the nonminor is placed,*
14 *whichever is later.* The county welfare department, ~~tribe,~~ or county
15 probation department, *or tribal entity* shall provide a nonminor
16 dependent who wishes to continue receiving aid with the assistance
17 necessary to meet and maintain eligibility.

18 (f) (1) The county having jurisdiction of the nonminor
19 dependent shall remain the county of payment under this section
20 regardless of the youth's physical residence. Nonminor *former*
21 dependents receiving aid pursuant to *subdivision (e) of* Section
22 11405 shall be paid by their county of residence. Counties may
23 develop courtesy supervision agreements to provide case
24 management and independent living services by the county of
25 residence pursuant to the ~~youth's~~ *nonminor dependent's* transitional
26 independent living case plan. Placements made out of state are
27 subject to the *applicable* requirements of the Interstate Compact
28 on Placement of Children, pursuant to Part 5 (commencing with
29 Section 7900) of Division 12 of the Family Code.

30 (2) The county welfare department, ~~tribe,~~ or county probation
31 department, *or tribal entity* shall notify all foster youth who attain
32 16 years of age and are under the jurisdiction of that county or
33 tribe, including those receiving Kin-GAP, and AAP, of the
34 existence of the aid prescribed by this section.

35 (3) The department shall seek any waiver to amend its Title
36 IV-E State Plan with the Secretary of the United States Department
37 of Health and Human Services necessary to implement this section.

38 (g) (1) Subject to paragraph (3), a county shall pay the
39 nonfederal share of the cost of extending aid pursuant to this
40 section to eligible nonminor dependents who have reached 18

1 years of age and who are under the jurisdiction of the county,
2 including AFDC-FC payments pursuant to Section 11401, aid
3 pursuant to Kin-GAP under Article 4.7 (commencing with Section
4 11385), adoption assistance payments as specified in Chapter 2.1
5 (commencing with Section 16115) of Part 4, and aid pursuant to
6 Section 11405 for nonminor dependents who are residing in the
7 county as provided in paragraph (1) of subdivision (f). A county
8 shall contribute to the CalWORKs payments pursuant to Section
9 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
10 with Section 11360) at the statutory sharing ratios in effect on
11 January 1, 2012.

12 (2) Subject to paragraph (3), a county shall pay the nonfederal
13 share of the cost of providing permanent placement services
14 pursuant to subdivision (c) of Section 16508 and administering
15 the Aid to Families with Dependent Children Foster Care program
16 pursuant to Section 15204.9. For purposes of budgeting, the
17 department shall use a standard for the permanent placement
18 services that is equal to the midpoint between the budgeting
19 standards for family maintenance services and family reunification
20 services.

21 (3) (A) (i) Notwithstanding any other provision of law, a
22 county's required total contribution pursuant to paragraphs (1) and
23 (2), excluding costs incurred pursuant to Section 10103.5, shall
24 not exceed the amount of savings in Kin-GAP assistance grant
25 expenditures realized by the county from the receipt of federal
26 funds due to the implementation of Article 4.7 (commencing with
27 Section 11385), and the amount of funding specifically included
28 in the Protective Services Subaccount within the Support Services
29 Account within the Local Revenue Fund 2011, plus any associated
30 growth funding from the Support Services Growth Subaccount
31 within the Sales and Use Tax Growth Account to pay the costs of
32 extending aid pursuant to this section.

33 (ii) A county, at its own discretion, may expend additional funds
34 beyond the amounts identified in clause (i). These additional
35 amounts shall not be included in any cost and savings calculations
36 or comparisons performed pursuant to this section.

37 (B) Beginning in the 2011–12 fiscal year, and for each fiscal
38 year thereafter, funding and expenditures for programs and
39 activities under this section shall be in accordance with the
40 requirements provided in Sections 30025 and 30026.5 of the

1 Government Code. In addition, the following are available to the
2 counties for the purpose of funding costs pursuant to this section:

3 (i) The savings in Kin-GAP assistance grant expenditures
4 realized from the receipt of federal funds due to the implementation
5 of Article 4.7 (commencing with Section 11385).

6 (ii) The savings realized from the change in federal funding for
7 adoption assistance resulting from the enactment of Public Law
8 110-351 and consistent with subdivision (d) of Section 16118.

9 (4) (A) The limit on the county's total contribution pursuant to
10 paragraph (3) shall be assessed by the State Department of Social
11 Services, in conjunction with the California State Association of
12 Counties, in 2015–16, to determine if it shall be removed. The
13 assessment of the need for the limit shall be based on a
14 determination on a statewide basis of whether the actual county
15 costs of providing extended care pursuant to this section, excluding
16 costs incurred pursuant to Section 10103.5, are fully funded by
17 the amount of savings in Kin-GAP assistance grant expenditures
18 realized by the counties from the receipt of federal funds due to
19 the implementation of Article 4.7 (commencing with Section
20 11385) and the amount of funding specifically included in the
21 Protective Services Subaccount within the Support Services
22 Account within the Local Revenue Fund 2011 plus any associated
23 growth funding from the Support Services Growth Subaccount
24 within the Sales and Use Tax Growth Account to pay the costs of
25 extending aid pursuant to this section.

26 (B) If the assessment pursuant to subparagraph (A) shows that
27 the statewide total costs of extending aid pursuant to this section,
28 excluding costs incurred pursuant to Section 10103.5, are fully
29 funded by the amount of savings in Kin-GAP assistance grant
30 expenditures realized by the counties from the receipt of federal
31 funds due to the implementation of Article 4.7 (commencing with
32 Section 11385) and the amount of funding specifically included
33 in the Protective Services Subaccount within the Support Services
34 Account within the Local Revenue Fund 2011 plus any associated
35 growth funding from the Support Services Growth Subaccount
36 within the Sales and Use Tax Growth Account to pay the costs of
37 extending aid pursuant to this section, the Department of Finance
38 shall certify that fact, in writing, and shall post the certification on
39 its Internet Web site, at which time subparagraph (A) of paragraph
40 (3) shall no longer be implemented.

1 (h) It is the intent of the Legislature that no county currently
2 participating in the Child Welfare Demonstration Capped
3 Allocation Project be adversely impacted by the department's
4 exercise of its option to extend foster care benefits pursuant to
5 Section 673(a)(4) and Section 675(8) of Title 42 of the United
6 States Code in the federal Social Security Act, as contained in the
7 federal Fostering Connections to Success and Increasing Adoptions
8 Act of 2008 (Public Law 110-351). Therefore, the department shall
9 negotiate with the United States Department of Health and Human
10 Services on behalf of those counties that are currently participating
11 in the demonstration project to ensure that those counties receive
12 reimbursement for these new programs outside of the provisions
13 of those counties' waiver under Subtitle IV-E (commencing with
14 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
15 670 et seq.).

16 (i) The department, on or before July 1, ~~2012~~ 2013, shall develop
17 regulations to implement this section in consultation with
18 concerned stakeholders, including, but not limited to,
19 representatives of the Legislature, the County Welfare Directors
20 Association, the Chief Probation Officers of California, the Judicial
21 Council, representatives of Indian tribes, the California Youth
22 Connection, former foster youth, child advocacy organizations,
23 labor organizations, juvenile justice advocacy organizations, foster
24 caregiver organizations, and researchers. In the development of
25 these regulations, the department shall consider its Manual of
26 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
27 and 917, as guidelines for developing regulations that are
28 appropriate for young adults who can exercise incremental
29 responsibility concurrently with their growth and development.
30 The department, in its consultation with stakeholders, shall take
31 into consideration the impact to the Automated Child Welfare
32 Services Case Management Services (CWS-CMS) and required
33 modifications needed to accommodate eligibility determination
34 under this section, benefit issuance, case management across
35 counties, and recognition of the legal status of nonminor
36 dependents as adults, as well as changes to data tracking and
37 reporting requirements as required by the Child Welfare System
38 Improvement and Accountability Act as specified in Section
39 10601.2, and federal outcome measures as required by the federal
40 John H. Chafee Foster Care Independence Program (42 U.S.C.

1 Sec. 677(f)). In addition, the department, in its consultation with
2 stakeholders, shall define the supervised independent living setting
3 which shall include, but not be limited to, apartment living, room
4 and board arrangements, college or university dormitories, and
5 shared roommate settings, and define how those settings meet
6 health and safety standards suitable for nonminors. The department,
7 in its consultation with stakeholders, shall define the six-month
8 certification of the conditions of eligibility pursuant to subdivision
9 (b) to be consistent with the flexibility provided by federal policy
10 guidance, to ensure that there are ample supports for a nonminor
11 to achieve the goals of his or her transition independent living case
12 plan. The department, in its consultation with stakeholders, shall
13 ensure that notices of action and other forms created to inform the
14 nonminor of due process rights and how to access them shall be
15 developed, using language consistent with the special needs of the
16 nonminor dependent population.

17 (j) Notwithstanding the Administrative Procedure Act, Chapter
18 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
19 Title 2 of the Government Code, the department shall prepare for
20 implementation of the applicable provisions of this section by
21 publishing, after consultation with the stakeholders listed in
22 subdivision (i), all-county letters or similar instructions from the
23 director by October 1, 2011, to be effective January 1, 2012.
24 Emergency regulations to implement the applicable provisions of
25 this act may be adopted by the director in accordance with the
26 Administrative Procedure Act. The initial adoption of the
27 emergency regulations and one readoption of the emergency
28 regulations shall be deemed to be an emergency and necessary for
29 the immediate preservation of the public peace, health, safety, or
30 general welfare. Initial emergency regulations and the first
31 readoption of those emergency regulations shall be exempt from
32 review by the Office of Administrative Law. The emergency
33 regulations authorized by this section shall be submitted to the
34 Office of Administrative Law for filing with the Secretary of State
35 and shall remain in effect for no more than 180 days.

36 (k) This section shall become operative on January 1, 2012.

37 *SEC. 48. Section 11403.2 of the Welfare and Institutions Code*
38 *is amended to read:*

1 11403.2. (a) The following persons shall be eligible for
2 transitional housing provided pursuant to Article 4 (commencing
3 with Section 16522) of Chapter 5 of Part 4:

4 (1) Any foster child at least 16 years of age and not more than
5 18 years of age, and, on or after January 1, 2012, any nonminor
6 dependent, as defined in subdivision (v) of Section 11400, who is
7 eligible for AFDC-FC benefits as described in Section 11401. A
8 foster child under 18 years of age shall be eligible for placement
9 in the program certified as a “Transitional Housing Placement
10 Program,” pursuant to paragraph (1) of subdivision (a) of Section
11 16522.2. A nonminor dependent shall be eligible for placement in
12 the program certified as a “Transitional Housing Placement-Plus
13 Foster Care Program” pursuant to paragraph (2) of subdivision (a)
14 of Section 16522.2.

15 (2) Any former foster youth at least 18 years of age and not
16 more than 24 years of age who has exited from the foster care
17 system ~~at on or after 18 years of age~~ *his or her 18th birthday* and
18 elects to participate in Transitional Housing Program-Plus, as
19 defined in subdivision (s) of Section 11400, provided he or she
20 has not received services under this paragraph for more than a total
21 of 24 months, whether or not consecutive. If the person
22 participating in a Transitional Housing Program-Plus is not
23 receiving aid under Section 11403.1, he or she, as a condition of
24 participation, shall enter into, and execute the provisions of, a
25 transitional independent living plan that shall be mutually agreed
26 upon, and annually reviewed, by the former foster youth and the
27 applicable county welfare or probation department or independent
28 living program coordinator. The person participating under this
29 paragraph shall inform the county of any changes to conditions
30 specified in the agreed-upon plan that affect eligibility, including
31 changes in address, living circumstances, and the educational or
32 training program.

33 (b) Payment on behalf of an eligible person receiving transitional
34 housing services pursuant to paragraph (1) of subdivision (a) shall
35 be made to the transitional housing placement provider pursuant
36 to the conditions and limitations set forth in Section 11403.3.
37 Notwithstanding Section 11403.3, the department, in consultation
38 with concerned stakeholders, including, but not limited to,
39 representatives of the Legislature, the County Welfare Directors
40 Association, the Chief Probation Officers of California, the Judicial

Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, researchers, and transitional housing placement providers, shall convene a workgroup to establish a new rate structure for the Title IV-E funded THP-Plus-Foster Care placement option for nonminor dependents. The workgroup shall also consider application of this new rate structure to the Transitional Housing Program-Plus, as described in paragraph (2) of subdivision (a) of Section 11403.3. In developing the new rate structure pursuant to this subdivision, the department shall consider the average rates in effect and being paid by counties to current transitional housing placement providers.

~~SEC. 52.~~

SEC. 49. Section 16002.5 of the Welfare and Institutions Code is amended to read:

16002.5. It is the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor parents and nonminor dependent parents who are themselves under the jurisdiction of the juvenile court by ensuring that minor parents and their children are placed together in as family-like a setting as possible, unless it has been determined that placement together poses a risk to the child.

(a) To the greatest extent possible, dependent minor parents and their children living in foster care shall be provided with access to existing services for which they may be eligible, that are specifically targeted at supporting, maintaining, and developing both the parent-child bond and the minor parent's ability to provide a permanent and safe home for the child. Examples of these services may include, but shall not be limited to, child care, parenting classes, child development classes, and frequent visitation.

(b) The minor parent shall be given the ability to attend school, complete homework, and participate in age and developmentally appropriate activities unrelated to and separate from parenting.

(c) Foster care placements for minor parents and their children shall demonstrate a willingness and ability to provide support and assistance to dependent minor parents and their children.

(d) Contact between the child, the custodial parent, and the noncustodial parent shall be facilitated when that contact is found to be in the best interest of the child.

(e) For the purpose of this section, “child” refers to the child born to the minor parent.

(f) For the purpose of this section, “minor parent” refers to a dependent child who is also a parent.

(g) For the purpose of this section, “nonminor dependent parent” refers to a nonminor as described in subdivision (v) of Section 11400 who also is a parent.

~~SEC. 53.~~

SEC. 50. Section 16010 of the Welfare and Institutions Code is amended to read:

16010. (a) When a child is placed in foster care, the case plan for each child recommended pursuant to Section 358.1 shall include a summary of the health and education information or records, including mental health information or records, of the child. The summary may be maintained in the form of a health and education passport, or a comparable format designed by the child protective agency. The health and education summary shall include, but not be limited to, the names and addresses of the child’s health, dental, and education providers, the child’s grade level performance, the child’s school record, assurances that the child’s placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement, the number of school transfers the child has already experienced, the child’s educational progress, as demonstrated by factors, including, but not limited to, academic proficiency scores, credits earned toward graduation, a record of the child’s immunizations and allergies, the child’s known medical problems, the child’s current medications, past health problems and hospitalizations, a record of the child’s relevant mental health history, the child’s known mental health condition and medications, and any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of Social Services. If any other law imposes more stringent information requirements, then that section shall prevail.

(b) Additionally, a court report or assessment required pursuant to subdivision (g) of Section 361.5, Section 366.1, subdivision (d) of Section 366.21, or subdivision (b) of Section 366.22 shall

1 include a copy of the current health and education summary
2 described in subdivision (a). With respect to a nonminor dependent,
3 as described in subdivision (v) of Section 11400, a copy of the
4 current health and education summary shall be included in the
5 court report only if and when the nonminor dependent consents in
6 writing to its inclusion.

7 (c) As soon as possible, but not later than 30 days after initial
8 placement of a child into foster care, the child protective agency
9 shall provide the caregiver with the child's current health and
10 education summary as described in subdivision (a). For each
11 subsequent placement *of a child or nonminor dependent*, the child
12 protective agency shall provide the caregiver with a current
13 summary as described in subdivision (a) within 48 hours of the
14 placement. With respect to a nonminor dependent, as described in
15 subdivision (v) of Section 11400, ~~a copy of the current health and~~
16 ~~education summary shall be provided to the caregiver only if and~~
17 ~~when the nonminor dependent consents in writing to this provision~~
18 *the social worker or probation officer shall advise the young adult*
19 *of the social worker's or probation officer's obligation to provide*
20 *the health and education summary to the new caregiver and the*
21 *court, and shall discuss with the youth the benefits and liabilities*
22 *of sharing that information.*

23 (d) (1) Notwithstanding Section 827 or any other law, the child
24 protective agency may disclose any information described in this
25 section to a prospective caregiver or caregivers prior to placement
26 of a child if all of the following requirements are met:

27 (A) The child protective agency intends to place the child with
28 the prospective caregiver or caregivers.

29 (B) The prospective caregiver or caregivers are willing to
30 become the adoptive parent or parents of the child.

31 (C) The prospective caregiver or caregivers have an approved
32 adoption assessment or home study, a foster family home license,
33 certification by a licensed foster family agency, or approval
34 pursuant to the requirements in Sections 361.3 and 361.4.

35 (2) In addition to the information required to be provided under
36 this section, the child protective agency may disclose to the
37 prospective caregiver specified in paragraph (1), placement history
38 or underlying source documents that are provided to adoptive
39 parents pursuant to subdivisions (a) and (b) of Section 8706 of the
40 Family Code.

(e) The child's caregiver shall be responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's summary as described in subdivision (a) during the time that the child is in the care of the caregiver. On each required visit, the child protective agency or its designee family foster agency shall inquire of the caregiver whether there is any new information that should be added to the child's summary as described in subdivision (a). The child protective agency shall update the summary with the information as appropriate, but not later than the next court date or within 48 hours of a change in placement. The child protective agency or its designee family foster agency shall take all necessary steps to assist the caregiver in obtaining relevant health and education information for the child's health and education summary as described in subdivision (a). The caregiver of a nonminor dependent, as described in subdivision (v) of Section 11400, is not responsible for obtaining and maintaining the nonminor dependent's health and educational information, but may assist the nonminor dependent with any recordkeeping that the nonminor requests of the caregiver.

(f) At the initial hearing, the court shall direct each parent to provide to the child protective agency complete medical, dental, mental health, and educational information, and medical background, of the child and of the child's mother and the child's biological father if known. The Judicial Council shall create a form for the purpose of obtaining health and education information from the child's parents or guardians at the initial hearing. The court shall determine at the hearing held pursuant to Section 358 whether the medical, dental, mental health, and educational information has been provided to the child protective agency.

~~SEC. 54. Section 16120 of the Welfare and Institutions Code, as amended by Section 39 of Chapter 459 of the Statutes of 2011, is amended to read:~~

~~16120. A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (l), inclusive, are met or if the conditions specified in subdivision (m) are met.~~

~~(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment, or, in the case of a~~

1 ~~tribal customary adoption, if the court has given full faith and~~
2 ~~credit to a tribal customary adoption order as provided for pursuant~~
3 ~~to paragraph (2) of subdivision (c) of Section 366.26.~~

4 ~~(b) The child has at least one of the following characteristics~~
5 ~~that are barriers to his or her adoption:~~

6 ~~(1) Adoptive placement without financial assistance is unlikely~~
7 ~~because of membership in a sibling group that should remain intact~~
8 ~~or by virtue of race, ethnicity, color, language, age of three years~~
9 ~~or older, or parental background of a medical or behavioral nature~~
10 ~~that can be determined to adversely affect the development of the~~
11 ~~child.~~

12 ~~(2) Adoptive placement without financial assistance is unlikely~~
13 ~~because the child has a mental, physical, emotional, or medical~~
14 ~~disability that has been certified by a licensed professional~~
15 ~~competent to make an assessment and operating within the scope~~
16 ~~of his or her profession. This paragraph shall also apply to children~~
17 ~~with a developmental disability, as defined in subdivision (a) of~~
18 ~~Section 4512, including those determined to require out-of-home~~
19 ~~nonmedical care, as described in Section 11464.~~

20 ~~(c) The need for an adoption subsidy is evidenced by an~~
21 ~~unsuccessful search for an adoptive home to take the child without~~
22 ~~financial assistance, as documented in the case file of the~~
23 ~~prospective adoptive child. The requirement for this search shall~~
24 ~~be waived when it would be against the best interest of the child~~
25 ~~because of the existence of significant emotional ties with~~
26 ~~prospective adoptive parents while in the care of these persons as~~
27 ~~a foster child.~~

28 ~~(d) The child satisfies any of the following criteria:~~

29 ~~(1) He or she is under 18 years of age.~~

30 ~~(2) He or she is under 21 years of age and has a mental or~~
31 ~~physical handicap that warrants the continuation of assistance.~~

32 ~~(3) Effective January 1, 2012, he or she is under 20 years of~~
33 ~~age, and effective January 1, 2014, he or she is under 21 years of~~
34 ~~age and attained 16 years of age before the adoption assistance~~
35 ~~agreement became effective, and one or more of the conditions~~
36 ~~specified in subparagraphs (A) to (E), inclusive, of paragraph (3)~~
37 ~~of subdivision (b) of Section 11403.~~

38 ~~(e) The adoptive family is responsible for the child pursuant to~~
39 ~~the terms of an adoptive placement agreement or a final decree of~~
40 ~~adoption and has signed an adoption assistance agreement.~~

1 (f) ~~The adoptive family is legally responsible for the support of~~
2 ~~the child and the child is receiving support from the adoptive~~
3 ~~parent.~~

4 (g) ~~The department or the county responsible for determining~~
5 ~~the child's Adoption Assistance Program eligibility status and for~~
6 ~~providing financial aid, and the prospective adoptive parent, prior~~
7 ~~to or at the time the adoption decree is issued by the court, have~~
8 ~~signed an adoption assistance agreement that stipulates the need~~
9 ~~for, and the amount of, Adoption Assistance Program benefits.~~

10 (h) ~~The prospective adoptive parent or any adult living in the~~
11 ~~prospective adoptive home has completed the criminal background~~
12 ~~check requirements pursuant to Section 671(a)(20)(A) and (C) of~~
13 ~~Title 42 of the United States Code.~~

14 (i) ~~To be eligible for state funding, the child is the subject of an~~
15 ~~agency adoption, as defined in Section 8506 of the Family Code,~~
16 ~~or the nonminor dependent, as described in subdivision (v) of~~
17 ~~Section 11400, is the subject of an adoption under Section 9300~~
18 ~~of the Family Code, and was any of the following:~~

19 (1) ~~Under the supervision of a county welfare department as~~
20 ~~the subject of a legal guardianship or juvenile court dependency.~~

21 (2) ~~Relinquished for adoption to a licensed California private~~
22 ~~or public adoption agency, or another public agency operating a~~
23 ~~Title IV-E program on behalf of the state, and would have~~
24 ~~otherwise been at risk of dependency as certified by the responsible~~
25 ~~public child welfare agency.~~

26 (3) ~~Committed to the care of the department pursuant to Section~~
27 ~~8805 or 8918 of the Family Code.~~

28 (4) ~~The child is an Indian child and the subject of an order of~~
29 ~~adoption based on tribal customary adoption of an Indian child,~~
30 ~~as described in Section 366.24. Notwithstanding Section 8600.5~~
31 ~~of the Family Code, for purposes of this subdivision a tribal~~
32 ~~customary adoption shall be considered an agency adoption. For~~
33 ~~purposes of this paragraph, "Indian child" also includes a nonminor~~
34 ~~dependent, as described in subdivision (v) of Section 11400, unless~~
35 ~~the nonminor has elected not to be considered an Indian child~~
36 ~~pursuant to subdivision (b) of Section 224.1.~~

37 (j) ~~To be eligible for federal funding, in the case of a child who~~
38 ~~is not an applicable child for the federal fiscal year as defined in~~
39 ~~subdivision (n), the child satisfies any of the following criteria:~~

1 ~~(1) Prior to the finalization of an agency adoption, as defined~~
2 ~~in Section 8506 of the Family Code, or an independent adoption,~~
3 ~~as defined in Section 8524 of the Family Code, is filed, the child~~
4 ~~has met the requirements to receive federal supplemental security~~
5 ~~income benefits pursuant to Subchapter 16 (commencing with~~
6 ~~Section 1381) of Chapter 7 of Title 42 of the United States Code,~~
7 ~~as determined and documented by the federal Social Security~~
8 ~~Administration.~~

9 ~~(2) The child was removed from the home of a specified relative~~
10 ~~and the child would have been AFDC-eligible in the home of~~
11 ~~removal according to Section 606(a) or 607 of Title 42 of the~~
12 ~~United States Code, as those sections were in effect on July 16,~~
13 ~~1996, in the month of the voluntary placement agreement or in the~~
14 ~~month court proceedings are initiated to remove the child, resulting~~
15 ~~in a judicial determination that continuation in the home would be~~
16 ~~contrary to the child's welfare. The child must have been living~~
17 ~~with the specified relative from whom he or she was removed~~
18 ~~within six months of the month the voluntary placement agreement~~
19 ~~was signed or the petition to remove was filed.~~

20 ~~(3) The child was voluntarily relinquished to a licensed public~~
21 ~~or private adoption agency, or another public agency operating a~~
22 ~~Title IV-E program on behalf of the state, and there is a petition~~
23 ~~to the court to remove the child from the home within six months~~
24 ~~of the time the child lived with a specified relative and a subsequent~~
25 ~~judicial determination that remaining in the home would be~~
26 ~~contrary to the child's welfare.~~

27 ~~(4) Title IV-E foster care maintenance was paid on behalf of~~
28 ~~the child's minor parent and covered the cost of the minor parent's~~
29 ~~child while the child was in the foster family home or child care~~
30 ~~institution with the minor parent.~~

31 ~~(5) The child is an Indian child and the subject of an order of~~
32 ~~adoption based on tribal customary adoption of an Indian child,~~
33 ~~as described in Section 366.24. For purposes of this paragraph,~~
34 ~~"Indian child" also includes a nonminor dependent, as described~~
35 ~~in subdivision (v) of Section 11400, unless the nonminor has~~
36 ~~elected not to be considered an Indian child pursuant to subdivision~~
37 ~~(b) of Section 224.1.~~

38 ~~(k) To be eligible for federal funding, in the case of a child who~~
39 ~~is an applicable child for the federal fiscal year, as defined in~~
40 ~~subdivision (n), the child meets any of the following criteria:~~

1 ~~(1) At the time of initiation of adoptive proceedings was in the~~
2 ~~care of a public or licensed private child placement agency or~~
3 ~~Indian tribal organization pursuant to either of the following:~~

4 ~~(A) An involuntary removal of the child from the home in~~
5 ~~accordance with a judicial determination to the effect that~~
6 ~~continuation in the home would be contrary to the welfare of the~~
7 ~~child.~~

8 ~~(B) A voluntary placement agreement or a voluntary~~
9 ~~relinquishment.~~

10 ~~(2) He or she meets all medical or disability requirements of~~
11 ~~Title XVI with respect to eligibility for supplemental security~~
12 ~~income benefits.~~

13 ~~(3) He or she was residing in a foster family home or a child~~
14 ~~care institution with the child's minor parent, and the child's minor~~
15 ~~parent was in the foster family home or child care institution~~
16 ~~pursuant to either of the following:~~

17 ~~(A) An involuntary removal of the child from the home in~~
18 ~~accordance with a judicial determination to the effect that~~
19 ~~continuation in the home would be contrary to the welfare of the~~
20 ~~child.~~

21 ~~(B) A voluntary placement agreement or voluntary~~
22 ~~relinquishment.~~

23 ~~(4) The child is an Indian child and the subject of an order of~~
24 ~~adoption based on tribal customary adoption of an Indian child,~~
25 ~~as described in Section 366.24. For purposes of this paragraph,~~
26 ~~"Indian child" also includes a nonminor dependent, as described~~
27 ~~in subdivision (v) of Section 11400, unless the nonminor has~~
28 ~~elected not to be considered an Indian child pursuant to subdivision~~
29 ~~(b) of Section 224.1.~~

30 ~~(5) The nonminor dependent, as described in subdivision (v) of~~
31 ~~Section 11400, is the subject of an adoption under Section 9300~~
32 ~~of the Family Code.~~

33 ~~(l) The child is a citizen of the United States or a qualified alien~~
34 ~~as defined in Section 1641 of Title 8 of the United States Code. If~~
35 ~~the child is a qualified alien who entered the United States on or~~
36 ~~after August 22, 1996, and is placed with an unqualified alien, the~~
37 ~~child must meet the five-year residency requirement pursuant to~~
38 ~~Section 673(a)(2)(B) of Title 42 of the United States Code, unless~~
39 ~~the child is a member of one of the excepted groups pursuant to~~
40 ~~Section 1612(b) of Title 8 of the United States Code.~~

1 ~~(m) A child shall be eligible for Adoption Assistance Program~~
2 ~~benefits if the following conditions are met:~~

3 ~~(1) The child received Adoption Assistance Program benefits~~
4 ~~with respect to a prior adoption and the child is again available for~~
5 ~~adoption because the prior adoption was dissolved and the parental~~
6 ~~rights of the adoptive parents were terminated or because the~~
7 ~~child's adoptive parents died and the child meets the special needs~~
8 ~~criteria described in subdivisions (a) to (c), inclusive:~~

9 ~~(2) To receive federal funding, the citizenship requirements in~~
10 ~~subdivision (l).~~

11 ~~(n) (1) Except as provided in this subdivision, "applicable child"~~
12 ~~means a child for whom an adoption assistance agreement is~~
13 ~~entered into under this section during any federal fiscal year~~
14 ~~described in this subdivision if the child attained the applicable~~
15 ~~age for that federal fiscal year before the end of that federal fiscal~~
16 ~~year.~~

17 ~~(A) For federal fiscal year 2010, the applicable age is 16 years.~~

18 ~~(B) For federal fiscal year 2011, the applicable age is 14 years.~~

19 ~~(C) For federal fiscal year 2012, the applicable age is 12 years.~~

20 ~~(D) For federal fiscal year 2013, the applicable age is 10 years.~~

21 ~~(E) For federal fiscal year 2014, the applicable age is eight years.~~

22 ~~(F) For federal fiscal year 2015, the applicable age is six years.~~

23 ~~(G) For federal fiscal year 2016, the applicable age is four years.~~

24 ~~(H) For federal fiscal year 2017, the applicable age is two years.~~

25 ~~(I) For federal fiscal year 2018 and thereafter, any age.~~

26 ~~(2) Beginning with the 2010 federal fiscal year, the term~~
27 ~~"applicable child" shall include a child of any age on the date on~~
28 ~~which an adoption assistance agreement is entered into on behalf~~
29 ~~of the child under this section if the child meets both of the~~
30 ~~following criteria:~~

31 ~~(A) He or she has been in foster care under the responsibility~~
32 ~~of the state for at least 60 consecutive months.~~

33 ~~(B) He or she meets the requirements of subdivision (k).~~

34 ~~(3) Beginning with the 2010 federal fiscal year, an applicable~~
35 ~~child shall include a child of any age on the date that an adoption~~
36 ~~assistance agreement is entered into on behalf of the child under~~
37 ~~this section, without regard to whether the child is described in~~
38 ~~paragraph (2), if the child meets all of the following criteria:~~

39 ~~(A) He or she is a sibling of a child who is an applicable child~~
40 ~~for the federal fiscal year, under subdivision (n) or paragraph (2).~~

1 ~~(B) He or she is to be placed in the same adoption placement~~
2 ~~as an “applicable child” for the federal fiscal year who is their~~
3 ~~sibling.~~

4 ~~(C) He or she meets the requirements of subdivision (k).~~

5 ~~(o) This section shall remain in effect only until January 1, 2014,~~
6 ~~and as of that date is repealed, unless a later enacted statute, that~~
7 ~~is enacted before January 1, 2014, deletes or extends that date.~~

8 ~~SEC. 55.— Section 16120 of the Welfare and Institutions Code,~~
9 ~~as amended by Section 40 of Chapter 459 of the Statutes of 2011,~~
10 ~~is amended to read:~~

11 ~~16120. A child shall be eligible for Adoption Assistance~~
12 ~~Program benefits if all of the conditions specified in subdivisions~~
13 ~~(a) to (l), inclusive, are met or if the conditions specified in~~
14 ~~subdivision (m) are met.~~

15 ~~(a) It has been determined that the child cannot or should not~~
16 ~~be returned to the home of his or her parents as evidenced by a~~
17 ~~petition for termination of parental rights, a court order terminating~~
18 ~~parental rights, or a signed relinquishment.~~

19 ~~(b) The child has at least one of the following characteristics~~
20 ~~that are barriers to his or her adoption:~~

21 ~~(1) Adoptive placement without financial assistance is unlikely~~
22 ~~because of membership in a sibling group that should remain intact~~
23 ~~or by virtue of race, ethnicity, color, language, age of three years~~
24 ~~or older, or parental background of a medical or behavioral nature~~
25 ~~that can be determined to adversely affect the development of the~~
26 ~~child.~~

27 ~~(2) Adoptive placement without financial assistance is unlikely~~
28 ~~because the child has a mental, physical, emotional, or medical~~
29 ~~disability that has been certified by a licensed professional~~
30 ~~competent to make an assessment and operating within the scope~~
31 ~~of his or her profession. This paragraph shall also apply to children~~
32 ~~with a developmental disability, as defined in subdivision (a) of~~
33 ~~Section 4512, including those determined to require out-of-home~~
34 ~~nonmedical care, as described in Section 11464.~~

35 ~~(c) The need for adoption subsidy is evidenced by an~~
36 ~~unsuccessful search for an adoptive home to take the child without~~
37 ~~financial assistance, as documented in the case file of the~~
38 ~~prospective adoptive child. The requirement for this search shall~~
39 ~~be waived when it would be against the best interest of the child~~
40 ~~because of the existence of significant emotional ties with~~

1 prospective adoptive parents while in the care of these persons as
2 a foster child.

3 (d) ~~The child satisfies any of the following criteria:~~

4 (1) ~~He or she is under 18 years of age.~~

5 (2) ~~He or she is under 21 years of age and has a mental or~~
6 ~~physical handicap that warrants the continuation of assistance.~~

7 (3) (A) ~~Effective January 1, 2012, he or she is under 19 years~~
8 ~~of age, effective January 1, 2013, he or she is under 20 years of~~
9 ~~age, and effective January 1, 2014, he or she is under 21 years of~~
10 ~~age and attained 16 years of age before the adoption assistance~~
11 ~~agreement became effective, and one or more of the conditions~~
12 ~~specified in subparagraphs (A) to (E), inclusive, of paragraph (1)~~
13 ~~of subdivision (b) of Section 11403.~~

14 (B) ~~Notwithstanding subparagraph (A), a nonminor dependent~~
15 ~~who has been receiving aid pursuant to this chapter between~~
16 ~~January 1, 2012, and December 31, 2012, and who attains 19 years~~
17 ~~of age prior to January 1, 2013, may continue to receive aid,~~
18 ~~notwithstanding the age limitations in this paragraph, provided~~
19 ~~that the nonminor dependent continues to meet all other eligibility~~
20 ~~requirements.~~

21 (e) ~~The adoptive family is responsible for the child pursuant to~~
22 ~~the terms of an adoptive placement agreement or a final decree of~~
23 ~~adoption and has signed an adoption assistance agreement.~~

24 (f) ~~The adoptive family is legally responsible for the support of~~
25 ~~the child and the child is receiving support from the adoptive~~
26 ~~parent.~~

27 (g) ~~The department or the county responsible for determining~~
28 ~~the child's Adoption Assistance Program eligibility status and for~~
29 ~~providing financial aid, and the prospective adoptive parent, prior~~
30 ~~to or at the time the adoption decree is issued by the court, have~~
31 ~~signed an adoption assistance agreement that stipulates the need~~
32 ~~for, and the amount of, Adoption Assistance Program benefits.~~

33 (h) ~~The prospective adoptive parent or any adult living in the~~
34 ~~prospective adoptive home has completed the criminal background~~
35 ~~check requirements pursuant to Section 671(a)(20)(A) and (C) of~~
36 ~~Title 42 of the United States Code.~~

37 (i) ~~To be eligible for state funding, the child is the subject of an~~
38 ~~agency adoption, as defined in Section 8506 of the Family Code,~~
39 ~~or the nonminor dependent, as described in subdivision (v) of~~

1 Section 11400, is the subject of an adoption under Section 9300
2 of the Family Code, and was any of the following:

3 (1) Under the supervision of a county welfare department as
4 the subject of a legal guardianship or juvenile court dependency.

5 (2) Relinquished for adoption to a licensed California private
6 or public adoption agency, or another public agency operating a
7 Title IV-E program on behalf of the state, and would have
8 otherwise been at risk of dependency as certified by the responsible
9 public child welfare agency.

10 (3) Committed to the care of the department pursuant to Section
11 8805 or 8918 of the Family Code.

12 (j) To be eligible for federal funding, in the case of a child who
13 is not an applicable child for the federal fiscal year as defined in
14 subdivision (n), the child satisfies any of the following criteria:

15 (1) Prior to the finalization of an agency adoption, as defined
16 in Section 8506 of the Family Code, or an independent adoption,
17 as defined in Section 8524 of the Family Code, is filed, the child
18 has met the requirements to receive federal supplemental security
19 income benefits pursuant to Subchapter 16 (commencing with
20 Section 1381) of Chapter 7 of Title 42 of the United States Code,
21 as determined and documented by the federal Social Security
22 Administration.

23 (2) The child was removed from the home of a specified relative
24 and the child would have been AFDC-eligible in the home of
25 removal according to Section 606(a) or 607 of Title 42 of the
26 United States Code, as those sections were in effect on July 16,
27 1996, in the month of the voluntary placement agreement or in the
28 month court proceedings are initiated to remove the child, resulting
29 in a judicial determination that continuation in the home would be
30 contrary to the child's welfare. The child must have been living
31 with the specified relative from whom he or she was removed
32 within six months of the month the voluntary placement agreement
33 was signed or the petition to remove was filed.

34 (3) The child was voluntarily relinquished to a licensed public
35 or private adoption agency, or another public agency operating a
36 Title IV-E program on behalf of the state, and there is a petition
37 to the court to remove the child from the home within six months
38 of the time the child lived with a specified relative and a subsequent
39 judicial determination that remaining in the home would be
40 contrary to the child's welfare.

1 ~~(4) Title IV-E foster care maintenance was paid on behalf of~~
2 ~~the child's minor parent and covered the cost of the minor parent's~~
3 ~~child while the child was in the foster family home or child care~~
4 ~~institution with the minor parent.~~

5 ~~(k) To be eligible for federal funding, in the case of a child who~~
6 ~~is an applicable child for the federal fiscal year, as defined in~~
7 ~~subdivision (n), the child meets any of the following criteria:~~

8 ~~(1) At the time of initiation of adoptive proceedings was in the~~
9 ~~care of a public or licensed private child placement agency or~~
10 ~~Indian tribal organization pursuant to either of the following:~~

11 ~~(A) An involuntary removal of the child from the home in~~
12 ~~accordance with a judicial determination to the effect that~~
13 ~~continuation in the home would be contrary to the welfare of the~~
14 ~~child.~~

15 ~~(B) A voluntary placement agreement or a voluntary~~
16 ~~relinquishment.~~

17 ~~(2) He or she meets all medical or disability requirements of~~
18 ~~Title XVI with respect to eligibility for supplemental security~~
19 ~~income benefits.~~

20 ~~(3) He or she was residing in a foster family home or a child~~
21 ~~care institution with the child's minor parent, and the child's minor~~
22 ~~parent was in the foster family home or child care institution~~
23 ~~pursuant to either of the following:~~

24 ~~(A) An involuntary removal of the child from the home in~~
25 ~~accordance with a judicial determination to the effect that~~
26 ~~continuation in the home would be contrary to the welfare of the~~
27 ~~child.~~

28 ~~(B) A voluntary placement agreement or voluntary~~
29 ~~relinquishment.~~

30 ~~(4) The nonminor dependent, as described in subdivision (v) of~~
31 ~~Section 11400, is the subject of an adoption under Section 9300~~
32 ~~of the Family Code.~~

33 ~~(l) The child is a citizen of the United States or a qualified alien~~
34 ~~as defined in Section 1641 of Title 8 of the United States Code. If~~
35 ~~the child is a qualified alien who entered the United States on or~~
36 ~~after August 22, 1996, and is placed with an unqualified alien, the~~
37 ~~child must meet the five-year residency requirement pursuant to~~
38 ~~Section 673(a)(2)(B) of Title 42 of the United States Code, unless~~
39 ~~the child is a member of one of the excepted groups pursuant to~~
40 ~~Section 1612(b) of Title 8 of the United States Code.~~

~~(m) A child shall be eligible for Adoption Assistance Program benefits if the following conditions are met:~~

~~(1) The child received Adoption Assistance Program benefits with respect to a prior adoption and the child is again available for adoption because the prior adoption was dissolved and the parental rights of the adoptive parents were terminated or because the child's adoptive parents died and the child meets the special needs criteria described in subdivisions (a) to (c), inclusive.~~

~~(2) To receive federal funding, the citizenship requirements in subdivision (l).~~

~~(n) (1) Except as provided in this subdivision, "applicable child" means a child for whom an adoption assistance agreement is entered into under this section during any federal fiscal year described in this subdivision if the child attained the applicable age for that federal fiscal year before the end of that federal fiscal year.~~

~~(A) For federal fiscal year 2010, the applicable age is 16 years.~~

~~(B) For federal fiscal year 2011, the applicable age is 14 years.~~

~~(C) For federal fiscal year 2012, the applicable age is 12 years.~~

~~(D) For federal fiscal year 2013, the applicable age is 10 years.~~

~~(E) For federal fiscal year 2014, the applicable age is eight years.~~

~~(F) For federal fiscal year 2015, the applicable age is six years.~~

~~(G) For federal fiscal year 2016, the applicable age is four years.~~

~~(H) For federal fiscal year 2017, the applicable age is two years.~~

~~(I) For federal fiscal year 2018 and thereafter, any age.~~

~~(2) Beginning with the 2010 federal fiscal year, the term "applicable child" shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child meets both of the following criteria:~~

~~(A) He or she has been in foster care under the responsibility of the state for at least 60 consecutive months.~~

~~(B) He or she meets the requirements of subdivision (k).~~

~~(3) Beginning with the 2010 federal fiscal year, an applicable child shall include a child of any age on the date that an adoption assistance agreement is entered into on behalf of the child under this section, without regard to whether the child is described in paragraph (2), if the child meets all of the following criteria:~~

~~(A) He or she is a sibling of a child who is an applicable child for the federal fiscal year, under subdivision (n) or paragraph (2).~~

1 ~~(B) He or she is to be placed in the same adoption placement~~
2 ~~as an applicable child for the federal fiscal year who is his or her~~
3 ~~sibling.~~

4 ~~(C) He or she meets the requirements of subdivision (k).~~

5 ~~(o) This section shall become operative on January 1, 2014.~~

6 ~~SEC. 56. Section 16122 of the Welfare and Institutions Code~~
7 ~~is amended to read:~~

8 ~~16122. (a) It is the intent of the Legislature in enacting this~~
9 ~~chapter to provide children who would otherwise remain in~~
10 ~~long-term foster care with permanent adoptive homes. It is also~~
11 ~~the intent of this Legislature to encourage private adoption agencies~~
12 ~~to continue placing these children, and in so doing, to achieve a~~
13 ~~substantial savings to the state in foster care costs.~~

14 ~~(b) From any funds appropriated for this purpose, the state shall~~
15 ~~compensate private adoption agencies licensed pursuant to Chapter~~
16 ~~3 (commencing with Section 1500) of Division 2 of the Health~~
17 ~~and Safety Code for costs of placing for adoption children eligible~~
18 ~~for Adoption Assistance Program benefits pursuant to Section~~
19 ~~16120.~~

20 ~~These agencies shall be compensated for otherwise unreimbursed~~
21 ~~costs for the placement of these children in an amount not to exceed~~
22 ~~a total of three thousand five hundred dollars (\$3,500) per child~~
23 ~~adopted. Half of the compensation shall be paid at the time the~~
24 ~~adoptive placement agreement is signed. The remainder shall be~~
25 ~~paid at the time the adoption petition is granted by the court.~~
26 ~~Requests for compensation shall conform to claims procedures~~
27 ~~established by the department. This section shall not be construed~~
28 ~~to authorize reimbursement to private agencies for intercountry~~
29 ~~adoption services.~~

30 ~~(c) Effective July 1, 1999, the maximum amount of~~
31 ~~reimbursement pursuant to subdivision (b) shall be five thousand~~
32 ~~dollars (\$5,000).~~

33 ~~(d) Effective February 1, 2008, the maximum amount of~~
34 ~~reimbursement pursuant to subdivision (b) shall be ten thousand~~
35 ~~dollars (\$10,000). This rate increase shall apply only to those cases~~
36 ~~for which the adoptive home study approval occurred on or after~~
37 ~~July 1, 2007.~~

38 ~~(e) Commencing with the budget subcommittee hearings for~~
39 ~~the 2008-09 fiscal year, the State Department of Social Services~~
40 ~~shall review the reimbursement methodology for the program and~~

~~annually provide information to the fiscal committees of the Legislature on all of the following:~~

~~(1) The costs and savings, to the extent that these can be assessed, associated with increasing the reimbursement rate.~~

~~(2) Outcome data, including the increased number of adoptive placements and finalized adoptions, and how these outcomes compare to prior years.~~

~~(3) The progress toward earning federal adoption incentives.~~

~~(4) The number of new agencies participating in the placement of children pursuant to this section.~~

~~SEC. 57. Section 16123 of the Welfare and Institutions Code is amended to read:~~

~~16123. The provisions of Section 16120, permitting the payment of adoption assistance until a child attains 18 or 21 years of age if the child has mental or physical handicaps, or effective January 1, 2012, up to 21 years of age, if the child or nonminor meets the criteria specified in paragraph (3) of subdivision (d) of Section 16120, shall be effective as long as federal funds are available under Title IV-E of the federal Social Security Act (Part E (commencing with Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code), and the state continues to exercise its option to extend payments up to 21 years of age, pursuant to Section 473(a)(4) of the federal Social Security Act (42 U.S.C. Sec. 673(a)(4)). When those funds cease to be available, the maximum length for payment of the Adoption Assistance Program shall be five years except in instances in which there is a continuing need, related to a chronic health condition of the child which necessitated the initial financial assistance. In those cases, a parent may, until October 1, 1992, petition the department or licensed adoption agency to continue financial assistance up to the age of majority. On and after October 1, 1992, the parent may petition the department or the responsible county to continue financial assistance up to the age of majority.~~

~~SEC. 51. Section 16120 of the Welfare and Institutions Code is amended to read:~~

~~16120. A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (l), inclusive, are met or if the conditions specified in subdivision (m) are met.~~

(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment, or, in the case of a tribal customary adoption, if the court has given full faith and credit to a tribal customary adoption order as provided for pursuant to paragraph (2) of subdivision (e) of Section 366.26, *or, in the case of a nonminor dependent the court has dismissed dependency or transitional jurisdiction subsequent to the approval of the nonminor dependent, adoption petition pursuant to subdivision (f) of Section 366.31.*

(b) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, *age of* three years ~~of age~~ or older, or parental background of a medical or behavioral nature that can be determined to adversely affect the development of the child.

(2) Adoptive placement without financial assistance is unlikely because the child has a mental, physical, emotional, or medical disability that has been certified by a licensed professional competent to make an assessment and operating within the scope of his or her profession. This paragraph shall also apply to children with a developmental disability, as defined in subdivision (a) of Section 4512, including those determined to require out-of-home nonmedical care, as described in Section 11464.

(c) The need for *an* adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(d) The child satisfies any of the following criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a mental or physical handicap that warrants the continuation of assistance.

(3) Effective January 1, 2012, he or she is under 19 years of age, effective January 1, 2013, he or she is under 20 years of age, and effective January 1, 2014, he or she is under 21 years of age *and as described in Section 10103.5*, and *has* attained 16 years of age before the adoption assistance agreement became effective, and one or more of the conditions specified in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403 *applies*.

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have signed an adoption assistance agreement that stipulates the need for, and the amount of, Adoption Assistance Program benefits.

(h) The prospective adoptive parent or any adult living in the prospective adoptive home has completed the criminal background check requirements pursuant to Section 671(a)(20)(A) and (C) of Title 42 of the United States Code.

(i) To be eligible for state funding, the child is the subject of an agency adoption, as defined in Section 8506 of the Family ~~Code~~ *Code*, and was any of the following:

(1) Under the supervision of a county welfare department as the subject of a legal guardianship or juvenile court dependency.

(2) Relinquished for adoption to a licensed California private or public adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and would have otherwise been at risk of dependency as certified by the responsible public child welfare agency.

(3) Committed to the care of the department pursuant to Section 8805 or 8918 of the Family Code.

(4) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24. Notwithstanding Section 8600.5 of the Family Code, for purposes of this subdivision a tribal customary adoption shall be considered an agency adoption.

1 (j) To be eligible for federal funding, in the case of a child who
2 is not an applicable child for the federal fiscal year as defined in
3 subdivision (n), the child satisfies any of the following criteria:

4 (1) Prior to the finalization of an agency adoption, as defined
5 in Section 8506 of the Family Code, or an independent adoption,
6 as defined in Section 8524 of the Family Code, is filed, the child
7 has met the requirements to receive federal supplemental security
8 income benefits pursuant to Subchapter 16 (commencing with
9 Section 1381) of Chapter 7 of Title 42 of the United States Code,
10 as determined and documented by the federal Social Security
11 Administration.

12 (2) The child was removed from the home of a specified relative
13 and the child would have been ~~AFDC-eligible~~ *AFDC eligible* in
14 the home of removal according to Section 606(a) or 607 of Title
15 42 of the United States Code, as those sections were in effect on
16 July 16, 1996, in the month of the voluntary placement agreement
17 or in the month court proceedings are initiated to remove the child,
18 resulting in a judicial determination that continuation in the home
19 would be contrary to the child's welfare. The child must have been
20 living with the specified relative from whom he or she was
21 removed within six months of the month the voluntary placement
22 agreement was signed or the petition to remove was filed.

23 (3) The child was voluntarily relinquished to a licensed public
24 or private adoption agency, or another public agency operating a
25 Title IV-E program on behalf of the state, and there is a petition
26 to the court to remove the child from the home within six months
27 of the time the child lived with a specified relative and a subsequent
28 judicial determination that remaining in the home would be
29 contrary to the child's welfare.

30 (4) Title IV-E foster care maintenance was paid on behalf of
31 the child's minor parent and covered the cost of the minor parent's
32 child while the child was in the foster family home or child care
33 institution with the minor parent.

34 (5) The child is an Indian child and the subject of an order of
35 adoption based on tribal customary adoption of an Indian child,
36 as described in Section 366.24.

37 (k) To be eligible for federal funding, in the case of a child who
38 is an applicable child for the federal fiscal year, as defined in
39 subdivision (n), the child meets any of the following criteria:

1 (1) At the time of initiation of adoptive proceedings was in the
2 care of a public or licensed private child placement agency or
3 Indian tribal organization pursuant to either of the following:

4 (A) An involuntary removal of the child from the home in
5 accordance with a judicial determination to the effect that
6 continuation in the home would be contrary to the welfare of the
7 child.

8 (B) A voluntary placement agreement or a voluntary
9 relinquishment.

10 (2) He or she meets all medical or disability requirements of
11 Title XVI with respect to eligibility for supplemental security
12 income benefits.

13 (3) He or she was residing in a foster family home or a child
14 care institution with the child's minor parent, and the child's minor
15 parent was in the foster family home or child care institution
16 pursuant to either of the following:

17 (A) An involuntary removal of the child from the home in
18 accordance with a judicial determination to the effect that
19 continuation in the home would be contrary to the welfare of the
20 child.

21 (B) A voluntary placement agreement or voluntary
22 relinquishment.

23 (4) The child is an Indian child and the subject of an order of
24 adoption based on tribal customary adoption of an Indian child,
25 as described in Section 366.24.

26 (l) The child is a citizen of the United States or a qualified alien
27 as defined in Section 1641 of Title 8 of the United States Code. If
28 the child is a qualified alien who entered the United States on or
29 after August 22, 1996, and is placed with an unqualified alien, the
30 child must meet the five-year residency requirement pursuant to
31 Section 673(a)(2)(B) of Title 42 of the United States Code, unless
32 the child is a member of one of the excepted groups pursuant to
33 Section 1612(b) of Title 8 of the United States Code.

34 (m) A child shall be eligible for Adoption Assistance Program
35 benefits if the following conditions are met:

36 (1) The child received Adoption Assistance Program benefits
37 with respect to a prior adoption and the child is again available for
38 adoption because the prior adoption was dissolved and the parental
39 rights of the adoptive parents were terminated or because the

1 child's adoptive parents died and the child meets the special needs
2 criteria described in subdivisions (a) to (c), inclusive.

3 (2) To receive federal funding, the citizenship requirements in
4 subdivision (l).

5 (n) (1) Except as provided in this subdivision, "applicable child"
6 means a child for whom an adoption assistance agreement is
7 entered into under this section during any federal fiscal year
8 described in this subdivision if the child attained the applicable
9 age for that federal fiscal year before the end of that federal fiscal
10 year.

11 (A) For federal fiscal year 2010, the applicable age is 16 years.

12 (B) For federal fiscal year 2011, the applicable age is 14 years.

13 (C) For federal fiscal year 2012, the applicable age is 12 years.

14 (D) For federal fiscal year 2013, the applicable age is 10 years.

15 (E) For federal fiscal year 2014, the applicable age is eight years.

16 (F) For federal fiscal year 2015, the applicable age is six years.

17 (G) For federal fiscal year 2016, the applicable age is four years.

18 (H) For federal fiscal year 2017, the applicable age is two years.

19 (I) For federal fiscal year 2018 and thereafter, any age.

20 (2) Beginning with the 2010 federal fiscal year, the term
21 "applicable child" shall include a child of any age on the date on
22 which an adoption assistance agreement is entered into on behalf
23 of the child under this section if the child meets both of the
24 following criteria:

25 (A) He or she has been in foster care under the responsibility
26 of the state for at least 60 consecutive months.

27 (B) He or she meets the requirements of subdivision (k).

28 (3) Beginning with the 2010 federal fiscal year, an applicable
29 child shall include a child of any age on the date that an adoption
30 assistance agreement is entered into on behalf of the child under
31 this section, without regard to whether the child is described in
32 paragraph (2), if the child meets all of the following criteria:

33 (A) He or she is a sibling of a child who is an applicable child
34 for the federal fiscal year, under subdivision (n) or paragraph (2).

35 (B) He or she is to be placed in the same adoption placement
36 as an "applicable child" for the federal fiscal year who is their
37 sibling.

38 (C) He or she meets the requirements of subdivision (k).

39 *SEC. 52. Section 16120.1 of the Welfare and Institutions Code*
40 *is amended to read:*

1 16120.1. Upon the authorization of the department or, where
2 appropriate, the county responsible for determining the child's *or*
3 *nonminor dependent's* Adoption Assistance Program eligibility
4 status and for providing financial aid, the responsible county shall
5 directly reimburse eligible individuals for reasonable nonrecurring
6 expenses, as defined by the department, incurred as a result of the
7 adoption of a special needs child, as defined in subdivisions (a) to
8 (c), inclusive, and subdivision (l), of Section 16120.
9 Reimbursements shall conform to the eligibility criteria and
10 claiming procedures established by the department and shall be
11 subject to the following conditions:

12 (a) The amount of the payment shall be determined through
13 agreement between the adopting parent or parents and the
14 department or the county responsible for determining the child's
15 Adoption Assistance Program eligibility status and for providing
16 financial aid. The agreement shall indicate the nature and the
17 amount of the nonrecurring expenses to be paid. Payments shall
18 be limited to an amount not to exceed four hundred dollars (\$400)
19 for each placement eligible for the Adoption Assistance Program.

20 (b) There shall be no income eligibility requirement for an
21 adoptive parent or adoptive parents in determining whether
22 payments for nonrecurring expenses shall be made.

23 (c) Reimbursement for nonrecurring expenses shall be limited
24 to costs incurred by or on behalf of an adoptive parent or adoptive
25 parents that are not reimbursed from other sources. No payments
26 shall be made under this section if the federal program for
27 reimbursement of nonrecurring expenses for the adoption of
28 children eligible for the Adoption Assistance Program pursuant to
29 Section 673 of Title 42 of the United States Code is terminated.

30 (d) Reimbursement for nonrecurring expenses shall be in
31 addition to any adoption expenses paid pursuant to Section 16121
32 and shall not be included in the computation of maximum benefits
33 for which the adoptive family is eligible pursuant to Section 16121.

34 *SEC. 53. Section 16122 of the Welfare and Institutions Code*
35 *is amended to read:*

36 16122. (a) It is the intent of the Legislature in enacting this
37 chapter to provide children *or nonminor dependents* who would
38 otherwise remain in long-term foster care with permanent adoptive
39 homes. It is also the intent of this Legislature to encourage private
40 adoption agencies to continue placing these children, and in so

1 doing, to achieve a substantial savings to the state in foster care
2 costs.

3 (b) From any funds appropriated for this purpose, the state shall
4 compensate private adoption agencies licensed pursuant to Chapter
5 3 (commencing with Section 1500) of Division 2 of the Health
6 and Safety Code for costs of placing for adoption children *or*
7 *nonminor dependents* eligible for Adoption Assistance Program
8 benefits pursuant to Section 16120.

9 These agencies shall be compensated for otherwise unreimbursed
10 costs for the placement of these children in an amount not to exceed
11 a total of three thousand five hundred dollars (\$3,500) per child
12 adopted. Half of the compensation shall be paid at the time the
13 adoptive placement agreement is signed. The remainder shall be
14 paid at the time the adoption petition is granted by the court.
15 Requests for compensation shall conform to claims procedures
16 established by the department. This section shall not be construed
17 to authorize reimbursement to private agencies for intercountry
18 adoption services.

19 (c) Effective July 1, 1999, the maximum amount of
20 reimbursement pursuant to subdivision (b) shall be five thousand
21 dollars (\$5,000).

22 (d) Effective February 1, 2008, the maximum amount of
23 reimbursement pursuant to subdivision (b) shall be ten thousand
24 dollars (\$10,000). This rate increase shall apply only to those cases
25 for which the adoptive home study approval occurred on or after
26 July 1, 2007.

27 *SEC. 54. Section 16123 of the Welfare and Institutions Code*
28 *is amended to read:*

29 16123. The provisions of Section 16120, permitting the
30 payment of adoption assistance until a child attains ~~the age of 18~~
31 *or 21 years of age* if the child has mental or physical handicaps,
32 or effective January 1, 2012, up to 21 years of age, if the child *or*
33 *nonminor* meets the criteria specified in paragraph (3) of
34 subdivision (d) of Section 16120, shall be effective as long as
35 federal funds are available under Title IV-E of the federal Social
36 Security Act (Part E (commencing with Section 670) of Subchapter
37 4 of Chapter 7 of Title 42 of the United States Code), and the state
38 continues to exercise its option to extend payments up to 21 years
39 of age, pursuant to Section 473(a)(4) of the federal Social Security
40 Act (42 U.S.C. Sec. 673(a)(4)). When those funds cease to be

1 available, the maximum length for payment of the Adoption
2 Assistance Program shall be five years except in instances in which
3 there is a continuing need, related to a chronic health condition of
4 the child which necessitated the initial financial assistance. On and
5 after October 1, 1992, the parent may petition the department or
6 the responsible county to continue financial assistance up to the
7 age of majority.

8 ~~SEC. 58.~~

9 *SEC. 55.* Section 16501 of the Welfare and Institutions Code
10 is amended to read:

11 16501. (a) As used in this chapter, “child welfare services”
12 means public social services which are directed toward the
13 accomplishment of any or all of the following purposes: protecting
14 and promoting the welfare of all children, including handicapped,
15 homeless, dependent, or neglected children; preventing or
16 remedying, or assisting in the solution of problems which may
17 result in, the neglect, abuse, exploitation, or delinquency of
18 children; preventing the unnecessary separation of children from
19 their families by identifying family problems, assisting families
20 in resolving their problems, and preventing breakup of the family
21 where the prevention of child removal is desirable and possible;
22 restoring to their families children who have been removed, by
23 the provision of services to the child and the families; identifying
24 children to be placed in suitable adoptive homes, in cases where
25 restoration to the biological family is not possible or appropriate;
26 and ensuring adequate care of children away from their homes, in
27 cases where the child cannot be returned home or cannot be placed
28 for adoption.

29 “Child welfare services” also means services provided on behalf
30 of children alleged to be the victims of child abuse, neglect, or
31 exploitation. The child welfare services provided on behalf of each
32 child represent a continuum of services, including emergency
33 response services, family preservation services, family maintenance
34 services, family reunification services, and permanent placement
35 services, including supportive transition services. The individual
36 child’s case plan is the guiding principle in the provision of these
37 services. The case plan shall be developed within a maximum of
38 60 days of the initial removal of the child or of the in-person
39 response required under subdivision (f) if the child has not been

1 removed from his or her home, or by the date of the dispositional
2 hearing pursuant to Section 358, whichever comes first.

3 (1) Child welfare services may include, but are not limited to,
4 a range of service-funded activities, including case management,
5 counseling, emergency shelter care, emergency in-home caretakers,
6 temporary in-home caretakers, respite care, therapeutic day
7 services, teaching and demonstrating homemakers, parenting
8 training, substance abuse testing, and transportation. These
9 service-funded activities shall be available to children and their
10 families in all phases of the child welfare program in accordance
11 with the child's case plan and departmental regulations. Funding
12 for services is limited to the amount appropriated in the annual
13 Budget Act and other available county funds.

14 (2) Service-funded activities to be provided may be determined
15 by each county, based upon individual child and family needs as
16 reflected in the service plan.

17 (3) As used in this chapter, "emergency shelter care" means
18 emergency shelter provided to children who have been removed
19 pursuant to Section 300 from their parent or parents or their
20 guardian or guardians. The department may establish, by
21 regulation, the time periods for which emergency shelter care shall
22 be funded. For the purposes of this paragraph, "emergency shelter
23 care" may include "transitional shelter care facilities" as defined
24 in paragraph (11) of subdivision (a) of Section 1502 of the Health
25 and Safety Code.

26 (b) As used in this chapter, "respite care" means temporary care
27 for periods not to exceed 72 hours. This care may be provided to
28 the child's parents or guardians. This care shall not be limited by
29 regulation to care over 24 hours. These services shall not be
30 provided for the purpose of routine, ongoing child care.

31 (c) The county shall provide child welfare services as needed
32 pursuant to an approved service plan and in accordance with
33 regulations promulgated, in consultation with the counties, by the
34 department. Counties may contract for service-funded activities
35 as defined in paragraph (1) of subdivision (a). Each county shall
36 use available private child welfare resources prior to developing
37 new county-operated resources when the private child welfare
38 resources are of at least equal quality and lesser or equal cost as
39 compared with county-operated resources. Counties shall not
40 contract for needs assessment, client eligibility determination, or

1 any other activity as specified by regulations of the State
2 Department of Social Services, except as specifically authorized
3 in Section 16100.

4 (d) Nothing in this chapter shall be construed to affect duties
5 which are delegated to probation officers pursuant to Sections 601
6 and 654.

7 (e) Any county may utilize volunteer individuals to supplement
8 professional child welfare services by providing ancillary support
9 services in accordance with regulations adopted by the State
10 Department of Social Services.

11 (f) As used in this chapter, emergency response services consist
12 of a response system providing in-person response, 24 hours a day,
13 seven days a week, to reports of abuse, neglect, or exploitation, as
14 required by Article 2.5 (commencing with Section 11164) of
15 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of
16 investigation pursuant to Section 11166 of the Penal Code and to
17 determine the necessity for providing initial intake services and
18 crisis intervention to maintain the child safely in his or her own
19 home or to protect the safety of the child. County welfare
20 departments shall respond to any report of imminent danger to a
21 child immediately and all other reports within 10 calendar days.
22 An in-person response is not required when the county welfare
23 department, based upon an evaluation of risk, determines that an
24 in-person response is not appropriate. This evaluation includes
25 collateral, contacts, a review of previous referrals, and other
26 relevant information, as indicated.

27 (g) As used in this chapter, family maintenance services are
28 activities designed to provide in-home protective services to
29 prevent or remedy neglect, abuse, or exploitation, for the purposes
30 of preventing separation of children from their families.

31 (h) As used in this chapter, family reunification services are
32 activities designed to provide time-limited foster care services to
33 prevent or remedy neglect, abuse, or exploitation, when the child
34 cannot safely remain at home, and needs temporary foster care,
35 while services are provided to reunite the family.

36 (i) As used in this chapter, permanent placement services are
37 activities designed to provide an alternate permanent family
38 structure for children who because of abuse, neglect, or exploitation
39 cannot safely remain at home and who are unlikely to ever return
40 home. These services shall be provided on behalf of children for

1 whom there has been a judicial determination of a permanent plan
2 for adoption, legal guardianship, or long-term foster care, and, as
3 needed, shall include supportive transition services to nonminor
4 dependents, as described in subdivision (v) of Section 11400.

5 (j) As used in this chapter, family preservation services include
6 those services specified in Section 16500.5 to avoid or limit
7 out-of-home placement of children, and may include those services
8 specified in that section to place children in the least restrictive
9 environment possible.

10 (k) (1) (A) In any county electing to implement this
11 subdivision, all county welfare department employees who have
12 frequent and routine contact with children shall, by February 1,
13 1997, and all welfare department employees who are expected to
14 have frequent and routine contact with children and who are hired
15 on or after January 1, 1996, and all such employees whose duties
16 change after January 1, 1996, to include frequent and routine
17 contact with children, shall, if the employees provide services to
18 children who are alleged victims of abuse, neglect, or exploitation,
19 sign a declaration under penalty of perjury regarding any prior
20 criminal conviction, and shall provide a set of fingerprints to the
21 county welfare director.

22 (B) The county welfare director shall secure from the
23 Department of Justice a criminal record to determine whether the
24 employee has ever been convicted of a crime other than a minor
25 traffic violation. The Department of Justice shall deliver the
26 criminal record to the county welfare director.

27 (C) If it is found that the employee has been convicted of a
28 crime, other than a minor traffic violation, the county welfare
29 director shall determine whether there is substantial and convincing
30 evidence to support a reasonable belief that the employee is of
31 good character so as to justify frequent and routine contact with
32 children.

33 (D) No exemption shall be granted pursuant to subparagraph
34 (C) if the person has been convicted of a sex offense against a
35 minor, or has been convicted of an offense specified in Section
36 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in
37 paragraph (1) of Section 273a of, or subdivision (a) or (b) of
38 Section 368 of, the Penal Code, or has been convicted of an offense
39 specified in subdivision (c) of Section 667.5 of the Penal Code.

1 The county welfare director shall suspend such a person from any
2 duties involving frequent and routine contact with children.

3 (E) Notwithstanding subparagraph (D), the county welfare
4 director may grant an exemption if the employee or prospective
5 employee, who was convicted of a crime against an individual
6 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5
7 of the Penal Code, has been rehabilitated as provided in Section
8 4852.03 of the Penal Code and has maintained the conduct required
9 in Section 4852.05 of the Penal Code for at least 10 years and has
10 the recommendation of the district attorney representing the
11 employee's or prospective employee's county of residence, or if
12 the employee or prospective employee has received a certificate
13 of rehabilitation pursuant to Chapter 3.5 (commencing with Section
14 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the
15 county welfare director may give the employee or prospective
16 employee an opportunity to explain the conviction and shall
17 consider that explanation in the evaluation of the criminal
18 conviction record.

19 (F) If no criminal record information has been recorded, the
20 county welfare director shall cause a statement of that fact to be
21 included in that person's personnel file.

22 (2) For purposes of this subdivision, a conviction means a plea
23 or verdict of guilty or a conviction following a plea of nolo
24 contendere. Any action which the county welfare director is
25 permitted to take following the establishment of a conviction may
26 be taken when the time for appeal has elapsed, or the judgment of
27 conviction has been affirmed on appeal or when an order granting
28 probation is made suspending the imposition of sentence,
29 notwithstanding a subsequent order pursuant to Sections 1203.4
30 and 1203.4a of the Penal Code permitting the person to withdraw
31 his or her plea of guilty and to enter a plea of not guilty, or setting
32 aside the verdict of guilty, or dismissing the accusation,
33 information, or indictment. For purposes of this subdivision, the
34 record of a conviction, or a copy thereof certified by the clerk of
35 the court or by a judge of the court in which the conviction
36 occurred, shall be conclusive evidence of the conviction.

37 ~~SEC. 59. Section 16501.1 of the Welfare and Institutions Code~~
38 ~~is amended to read:~~

1 ~~16501.1. (a) (1) The Legislature finds and declares that the~~
2 ~~foundation and central unifying tool in child welfare services is~~
3 ~~the case plan.~~

4 ~~(2) The Legislature further finds and declares that a case plan~~
5 ~~ensures that the child receives protection and safe and proper care~~
6 ~~and case management, and that services are provided to the child~~
7 ~~and parents or other caretakers, as appropriate, in order to improve~~
8 ~~conditions in the parent's home, to facilitate the safe return of the~~
9 ~~child to a safe home or the permanent placement of the child, and~~
10 ~~to address the needs of the child while in foster care.~~

11 ~~(b) (1) A case plan shall be based upon the principles of this~~
12 ~~section and shall document that a preplacement assessment of the~~
13 ~~service needs of the child and family, and preplacement preventive~~
14 ~~services, have been provided, and that reasonable efforts to prevent~~
15 ~~out-of-home placement have been made.~~

16 ~~(2) In determining the reasonable services to be offered or~~
17 ~~provided, the child's health and safety shall be the paramount~~
18 ~~concerns.~~

19 ~~(3) Upon a determination pursuant to paragraph (1) of~~
20 ~~subdivision (e) of Section 361.5 that reasonable services will be~~
21 ~~offered to a parent who is incarcerated in a county jail or state~~
22 ~~prison, the case plan shall include information, to the extent~~
23 ~~possible, about a parent's incarceration in a county jail or the state~~
24 ~~prison during the time that a minor child of that parent is involved~~
25 ~~in dependency care.~~

26 ~~(4) Reasonable services shall be offered or provided to make it~~
27 ~~possible for a child to return to a safe home environment, unless,~~
28 ~~pursuant to subdivisions (b) and (e) of Section 361.5, the court~~
29 ~~determines that reunification services shall not be provided.~~

30 ~~(5) If reasonable services are not ordered, or are terminated,~~
31 ~~reasonable efforts shall be made to place the child in a timely~~
32 ~~manner in accordance with the permanent plan and to complete~~
33 ~~all steps necessary to finalize the permanent placement of the child.~~

34 ~~(e) (1) If out-of-home placement is used to attain case plan~~
35 ~~goals, the decision regarding choice of placement shall be based~~
36 ~~upon selection of a safe setting that is the least restrictive or most~~
37 ~~family like and the most appropriate setting that is available and~~
38 ~~in close proximity to the parent's home, proximity to the child's~~
39 ~~school, and consistent with the selection of the environment best~~
40 ~~suited to meet the child's special needs and best interests. The~~

1 ~~selection shall consider, in order of priority, placement with~~
2 ~~relatives, tribal members, and foster family, group care, and~~
3 ~~residential treatment pursuant to Section 7950 of the Family Code.~~
4 ~~On or after January 1, 2012, for a nonminor dependent, as defined~~
5 ~~in subdivision (v) of Section 11400, who is receiving AFDC-FC~~
6 ~~benefits up to 21 years of age pursuant to Section 11403, in~~
7 ~~addition to the above requirements, the selection of the placement,~~
8 ~~including a supervised independent living setting, as described in~~
9 ~~Section 11400, shall also be based upon the developmental needs~~
10 ~~of young adults by providing opportunities to have incremental~~
11 ~~responsibilities that prepare a nonminor dependent to transition to~~
12 ~~independent living. If admission to, or continuation in, a group~~
13 ~~home placement is being considered for a nonminor dependent,~~
14 ~~the group home placement approval decision shall include a~~
15 ~~youth-driven, team-based case planning process, as defined by the~~
16 ~~department, in consultation with stakeholders. The case plan shall~~
17 ~~consider the full range of placement options, and shall specify why~~
18 ~~admission to, or continuation in, a group home placement is the~~
19 ~~best alternative available at the time to meet the special needs or~~
20 ~~well-being of the nonminor dependent, and how the placement~~
21 ~~will contribute to the nonminor dependent's transition to~~
22 ~~independent living. The case plan shall specify the treatment~~
23 ~~strategies that will be used to prepare the nonminor dependent for~~
24 ~~discharge to a less restrictive and more family-like setting,~~
25 ~~including a target date for discharge from the group home~~
26 ~~placement. The placement shall be reviewed and updated on a~~
27 ~~regular, periodic basis to ensure that continuation in the group~~
28 ~~home remains in the best interests of the nonminor dependent and~~
29 ~~that progress is being made in achieving case plan goals leading~~
30 ~~to independent living. The group home placement planning process~~
31 ~~shall begin as soon as it becomes clear to the county welfare~~
32 ~~department or probation office that a foster child in group home~~
33 ~~placement is likely to remain in group home placement on his or~~
34 ~~her 18th birthday, in order to expedite the transition to a less~~
35 ~~restrictive and more family-like setting if he or she becomes a~~
36 ~~nonminor dependent. The case planning process shall include~~
37 ~~informing the youth of all of his or her options, including, but not~~
38 ~~limited to, admission to or continuation in a group home placement.~~
39 ~~Consideration for continuation of existing group home placement~~
40 ~~for a nonminor dependent under 19 years of age may include the~~

1 need to stay in the same placement in order to complete high
2 school. After a nonminor dependent either completes high school
3 or attains his or her 19th birthday, whichever is earlier, continuation
4 in or admission to a group home is prohibited unless the nonminor
5 dependent satisfies the conditions of subparagraph (E) of paragraph
6 (3) of subdivision (b) of Section 11403, and group home placement
7 functions as a short-term transition to the appropriate system of
8 care. Treatment services provided by the group home placement
9 to the nonminor dependent to alleviate or ameliorate the medical
10 condition, as described in subparagraph (E) of paragraph (3) of
11 subdivision (b) of Section 11403, shall not constitute the sole basis
12 to disqualify a nonminor dependent from the group home
13 placement.

14 (2) In addition to the requirements of paragraph (1), and taking
15 into account other statutory considerations regarding placement,
16 the selection of the most appropriate home that will meet the child's
17 special needs and best interests shall also promote educational
18 stability by taking into consideration proximity to the child's school
19 of origin and school attendance area, the number of school transfers
20 the child has previously experienced, and the child's school
21 matriculation schedule, in addition to other indicators of
22 educational stability that the Legislature hereby encourages the
23 State Department of Social Services and the State Department of
24 Education to develop.

25 (d) A written case plan shall be completed within a maximum
26 of 60 days of the initial removal of the child or of the in-person
27 response required under subdivision (f) of Section 16501 if the
28 child has not been removed from his or her home, or by the date
29 of the dispositional hearing pursuant to Section 358, whichever
30 occurs first. The case plan shall be updated, as the service needs
31 of the child and family dictate. At a minimum, the case plan shall
32 be updated in conjunction with each status review hearing
33 conducted pursuant to Sections 364, 366, and 366.3, and the
34 hearing conducted pursuant to Section 366.26, but no less
35 frequently than once every six months. Each updated case plan
36 shall include a description of the services that have been provided
37 to the child under the plan and an evaluation of the appropriateness
38 and effectiveness of those services.

39 (1) It is the intent of the Legislature that extending the maximum
40 time available for preparing a written case plan from 30 to 60 days

1 will afford caseworkers time to actively engage families, and to
2 solicit and integrate into the case plan the input of the child and
3 the child's family, as well as the input of relatives and other
4 interested parties.

5 (2) The extension of the maximum time available for preparing
6 a written case plan from the 30 to 60 days shall be effective 90
7 days after the date that the department gives counties written notice
8 that necessary changes have been made to the Child Welfare
9 Services Case Management System to account for the 60-day
10 timeframe for preparing a written case plan.

11 (e) The child welfare services case plan shall be comprehensive
12 enough to meet the juvenile court dependency proceedings
13 requirements pursuant to Article 6 (commencing with Section 300)
14 of Chapter 2 of Part 1 of Division 2.

15 (f) The case plan shall be developed as follows:

16 (1) The case plan shall be based upon an assessment of the
17 circumstances that required child welfare services intervention.
18 The child shall be involved in developing the case plan as age and
19 developmentally appropriate.

20 (2) The case plan shall identify specific goals and the
21 appropriateness of the planned services in meeting those goals.

22 (3) The case plan shall identify the original allegations of abuse
23 or neglect, as defined in Article 2.5 (commencing with Section
24 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
25 conditions cited as the basis for declaring the child a dependent of
26 the court pursuant to Section 300, or all of these, and the other
27 precipitating incidents that led to child welfare services
28 intervention.

29 (4) The case plan shall include a description of the schedule of
30 the social worker contacts with the child and the family or other
31 caretakers. The frequency of these contacts shall be in accordance
32 with regulations adopted by the State Department of Social
33 Services. If the child has been placed in foster care out of state,
34 the county social worker or a social worker on the staff of the
35 social services agency in the state in which the child has been
36 placed shall visit the child in a foster family home or the home of
37 a relative, consistent with federal law and in accordance with the
38 department's approved state plan. For children in out-of-state group
39 home facilities, visits shall be conducted at least monthly, pursuant
40 to Section 16516.5. At least once every six months, at the time of

1 a regularly scheduled social worker contact with the foster child,
2 the child's social worker shall inform the child of his or her rights
3 as a foster child, as specified in Section 16001.9. The social worker
4 shall provide the information to the child in a manner appropriate
5 to the age or developmental level of the child.

6 ~~(5) (A) When out-of-home services are used, the frequency of~~
7 ~~contact between the natural parents or legal guardians and the child~~
8 ~~shall be specified in the case plan. The frequency of those contacts~~
9 ~~shall reflect overall case goals, and consider other principles~~
10 ~~outlined in this section.~~

11 ~~(B) Information regarding any court-ordered visitation between~~
12 ~~the child and the natural parents or legal guardians, and the terms~~
13 ~~and conditions needed to facilitate the visits while protecting the~~
14 ~~safety of the child, shall be provided to the child's out-of-home~~
15 ~~caregiver as soon as possible after the court order is made.~~

16 ~~(6) When out-of-home placement is made, the case plan shall~~
17 ~~include provisions for the development and maintenance of sibling~~
18 ~~relationships as specified in subdivisions (b), (c), and (d) of Section~~
19 ~~16002. If appropriate, when siblings who are dependents of the~~
20 ~~juvenile court are not placed together, the social worker for each~~
21 ~~child, if different, shall communicate with each of the other social~~
22 ~~workers and ensure that the child's siblings are informed of~~
23 ~~significant life events that occur within their extended family.~~
24 ~~Unless it has been determined that it is inappropriate in a particular~~
25 ~~case to keep siblings informed of significant life events that occur~~
26 ~~within the extended family, the social worker shall determine the~~
27 ~~appropriate means and setting for disclosure of this information~~
28 ~~to the child commensurate with the child's age and emotional~~
29 ~~well-being. These significant life events shall include, but shall~~
30 ~~not be limited to, the following:~~

31 ~~(A) The death of an immediate relative.~~

32 ~~(B) The birth of a sibling.~~

33 ~~(C) Significant changes regarding a dependent child, unless the~~
34 ~~child objects to the sharing of the information with his or her~~
35 ~~siblings, including changes in placement, major medical or mental~~
36 ~~health diagnoses, treatments, or hospitalizations, arrests, and~~
37 ~~changes in the permanent plan.~~

38 ~~(7) If out-of-home placement is made in a foster family home,~~
39 ~~group home, or other child care institution that is either a~~
40 ~~substantial distance from the home of the child's parent or out of~~

1 state, the case plan shall specify the reasons why that placement
2 is in the best interest of the child. When an out-of-state group home
3 placement is recommended or made, the case plan shall, in
4 addition, specify compliance with Section 7911.1 of the Family
5 Code.

6 (8) Effective January 1, 2010, a case plan shall ensure the
7 educational stability of the child while in foster care and shall
8 include both of the following:

9 (A) An assurance that the placement takes into account the
10 appropriateness of the current educational setting and the proximity
11 to the school in which the child is enrolled at the time of placement.

12 (B) An assurance that the placement agency has coordinated
13 with the person holding the right to make educational decisions
14 for the child and appropriate local educational agencies to ensure
15 that the child remains in the school in which the child is enrolled
16 at the time of placement or, if remaining in that school is not in
17 the best interests of the child, assurances by the placement agency
18 and the local educational agency to provide immediate and
19 appropriate enrollment in a new school and to provide all of the
20 child's educational records to the new school.

21 (9) (A) If out-of-home services are used, or if parental rights
22 have been terminated and the case plan is placement for adoption,
23 the case plan shall include a recommendation regarding the
24 appropriateness of unsupervised visitation between the child and
25 any of the child's siblings. This recommendation shall include a
26 statement regarding the child's and the siblings' willingness to
27 participate in unsupervised visitation. If the case plan includes a
28 recommendation for unsupervised sibling visitation, the plan shall
29 also note that information necessary to accomplish this visitation
30 has been provided to the child or to the child's siblings.

31 (B) Information regarding the schedule and frequency of the
32 visits between the child and siblings, as well as any court-ordered
33 terms and conditions needed to facilitate the visits while protecting
34 the safety of the child, shall be provided to the child's out-of-home
35 caregiver as soon as possible after the court order is made.

36 (10) If out-of-home services are used and the goal is
37 reunification, the case plan shall describe the services to be
38 provided to assist in reunification and the services to be provided
39 concurrently to achieve legal permanency if efforts to reunify fail.
40 The plan shall also consider in-state and out-of-state placements,

1 the importance of developing and maintaining sibling relationships
2 pursuant to Section 16002, and the desire and willingness of the
3 caregiver to provide legal permanency for the child if reunification
4 is unsuccessful.

5 (11) If out-of-home services are used, the child has been in care
6 for at least 12 months, and the goal is not adoptive placement, the
7 case plan shall include documentation of the compelling reason
8 or reasons why termination of parental rights is not in the child's
9 best interest. A determination completed or updated within the
10 past 12 months by the department when it is acting as an adoption
11 agency or by a licensed adoption agency that it is unlikely that the
12 child will be adopted, or that one of the conditions described in
13 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
14 be deemed a compelling reason.

15 (12) (A) Parents and legal guardians shall have an opportunity
16 to review the case plan, and to sign it whenever possible, and then
17 shall receive a copy of the plan. In a voluntary service or placement
18 agreement, the parents or legal guardians shall be required to
19 review and sign the case plan. Whenever possible, parents and
20 legal guardians shall participate in the development of the case
21 plan. Commencing January 1, 2012, for nonminor dependents, as
22 defined in subdivision (v) of Section 11400, who are receiving
23 AFDC-FC or CalWORKs assistance, up to 21 years of age pursuant
24 to Section 11403, the transitional independent living case plan, as
25 set forth in subdivision (y) of Section 11400, shall be developed
26 with, and signed by, the nonminor.

27 (B) Parents and legal guardians shall be advised that, pursuant
28 to Section 1228.1 of the Evidence Code, neither their signature on
29 the child welfare services case plan nor their acceptance of any
30 services prescribed in the child welfare services case plan shall
31 constitute an admission of guilt or be used as evidence against the
32 parent or legal guardian in a court of law. However, they shall also
33 be advised that the parent's or guardian's failure to cooperate,
34 except for good cause, in the provision of services specified in the
35 child welfare services case plan may be used in any hearing held
36 pursuant to Section 366.21 or 366.22 as evidence.

37 (13) A child shall be given a meaningful opportunity to
38 participate in the development of the case plan and state his or her
39 preference for foster care placement. A child who is 12 years of
40 age or older and in a permanent placement shall also be given the

1 opportunity to review the case plan, sign the case plan, and receive
2 a copy of the case plan.

3 ~~(14) The case plan shall be included in the court report and shall~~
4 ~~be considered by the court at the initial hearing and each review~~
5 ~~hearing. Modifications to the case plan made during the period~~
6 ~~between review hearings need not be approved by the court if the~~
7 ~~casework supervisor for that case determines that the modifications~~
8 ~~further the goals of the plan. If out-of-home services are used with~~
9 ~~the goal of family reunification, the case plan shall consider and~~
10 ~~describe the application of subdivision (b) of Section 11203.~~

11 ~~(15) If the case plan has as its goal for the child a permanent~~
12 ~~plan of adoption or placement in another permanent home, it shall~~
13 ~~include a statement of the child's wishes regarding their permanent~~
14 ~~placement plan and an assessment of those stated wishes. The~~
15 ~~agency shall also include documentation of the steps the agency~~
16 ~~is taking to find an adoptive family or other permanent living~~
17 ~~arrangements for the child; to place the child with an adoptive~~
18 ~~family, an appropriate and willing relative, a legal guardian, or in~~
19 ~~another planned permanent living arrangement; and to finalize the~~
20 ~~adoption or legal guardianship. At a minimum, the documentation~~
21 ~~shall include child-specific recruitment efforts, such as the use of~~
22 ~~state, regional, and national adoption exchanges, including~~
23 ~~electronic exchange systems, when the child has been freed for~~
24 ~~adoption. If the plan is for kinship guardianship, the case plan shall~~
25 ~~document how the child meets the kinship guardianship eligibility~~
26 ~~requirements.~~

27 ~~(16) (A) When appropriate, for a child who is 16 years of age~~
28 ~~or older and, commencing January 1, 2012, for a nonminor~~
29 ~~dependent, the case plan shall include the transitional independent~~
30 ~~living plan (TILP), a written description of the programs and~~
31 ~~services that will help the child, consistent with the child's best~~
32 ~~interests, prepare for the transition from foster care to independent~~
33 ~~living, and, in addition, whether the youth has an in-progress~~
34 ~~application pending for Title XVI Supplemental Security Income~~
35 ~~benefits or for Special Immigrant Juvenile Status or other~~
36 ~~applicable application for legal residency and an active dependency~~
37 ~~case is required for that application. When appropriate, for a~~
38 ~~nonminor dependent, the transitional independent living case plan,~~
39 ~~as described in subdivision (y) of Section 11400, shall include the~~
40 ~~TILP, a written description of the program and services that will~~

1 help the nonminor dependent, consistent with his or her best
2 interests, to prepare for transition from foster care and assist the
3 youth in meeting the eligibility criteria set forth in Section 11403.
4 If applicable, the case plan shall describe the individualized
5 supervision provided in the supervised independent living setting
6 as defined, in subdivision (w) of Section 11400. The case plan
7 shall be developed with the child or nonminor dependent and
8 individuals identified as important to the child or nonminor
9 dependent, and shall include steps the agency is taking to ensure
10 that the child or nonminor dependent achieves permanency,
11 including maintaining or obtaining permanent connections to caring
12 and committed adults.

13 (B) During the 90-day period prior to the participant attaining
14 18 years of age or older as the state may elect under Section
15 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social
16 Security Act, whether during that period foster care maintenance
17 payments are being made on the child's behalf or the child is
18 receiving benefits or services under Section 477 (42 U.S.C. Sec.
19 677) of the federal Social Security Act, a caseworker or other
20 appropriate agency staff or probation officer and other
21 representatives of the participant, as appropriate, shall provide the
22 youth or nonminor with assistance and support in developing the
23 written 90-day transition plan, that is personalized at the direction
24 of the child, information as detailed as the participant elects that
25 shall include, but not be limited to, options regarding housing,
26 health insurance, education, local opportunities for mentors and
27 continuing support services, and workforce supports and
28 employment services, a power of attorney for health care and
29 information regarding the advance health care directive form.

30 (g) If the court finds, after considering the case plan, that
31 unsupervised sibling visitation is appropriate and has been
32 consented to, the court shall order that the child or the child's
33 siblings, the child's current caregiver, and the child's prospective
34 adoptive parents, if applicable, be provided with information
35 necessary to accomplish this visitation. This section does not
36 require or prohibit the social worker's facilitation, transportation,
37 or supervision of visits between the child and his or her siblings.

38 (h) The case plan documentation on sibling placements required
39 under this section shall not require modification of existing case

1 ~~plan forms until the Child Welfare Services Case Management~~
2 ~~System is implemented on a statewide basis.~~

3 ~~(i) When a child who is 10 years of age or older and who has~~
4 ~~been in out-of-home placement for six months or longer, the case~~
5 ~~plan shall include an identification of individuals, other than the~~
6 ~~child's siblings, who are important to the child and actions~~
7 ~~necessary to maintain the child's relationship with those~~
8 ~~individuals, provided that those relationships are in the best interest~~
9 ~~of the child. The social worker shall ask every child who is 10~~
10 ~~years of age or older and who has been in out-of-home placement~~
11 ~~for six months or longer to identify individuals other than the~~
12 ~~child's siblings who are important to the child, and may ask any~~
13 ~~other child to provide that information, as appropriate. The social~~
14 ~~worker shall make efforts to identify other individuals who are~~
15 ~~important to the child, consistent with the child's best interests.~~

16 ~~(j) The child's caregiver shall be provided a copy of a plan~~
17 ~~outlining the child's needs and services. The nonminor dependent's~~
18 ~~caregiver shall be provided with a copy of the nonminor's TILP.~~

19 ~~(k) On or before June 30, 2008, the department, in consultation~~
20 ~~with the County Welfare Directors Association and other~~
21 ~~advocates, shall develop a comprehensive plan to ensure that 90~~
22 ~~percent of foster children are visited by their caseworkers on a~~
23 ~~monthly basis by October 1, 2011, and that the majority of the~~
24 ~~visits occur in the residence of the child. The plan shall include~~
25 ~~any data reporting requirements necessary to comply with the~~
26 ~~provisions of the federal Child and Family Services Improvement~~
27 ~~Act of 2006 (Public Law 109-288).~~

28 ~~(l) The implementation and operation of the amendments to~~
29 ~~subdivision (i) enacted at the 2005-06 Regular Session shall be~~
30 ~~subject to appropriation through the budget process and by phase,~~
31 ~~as provided in Section 366.35.~~

32 *SEC. 56. Section 16501.1 of the Welfare and Institutions Code*
33 *is amended to read:*

34 16501.1. (a) (1) The Legislature finds and declares that the
35 foundation and central unifying tool in child welfare services is
36 the case plan.

37 (2) The Legislature further finds and declares that a case plan
38 ensures that the child receives protection and safe and proper care
39 and case management, and that services are provided to the child
40 and parents or other caretakers, as appropriate, in order to improve

1 conditions in the parent's home, to facilitate the safe return of the
2 child to a safe home or the permanent placement of the child, and
3 to address the needs of the child while in foster care.

4 (b) (1) A case plan shall be based upon the principles of this
5 section and shall document that a preplacement assessment of the
6 service needs of the child and family, and preplacement preventive
7 services, have been provided, and that reasonable efforts to prevent
8 out-of-home placement have been made.

9 (2) In determining the reasonable services to be offered or
10 provided, the child's health and safety shall be the paramount
11 concerns.

12 (3) Upon a determination pursuant to paragraph (1) of
13 subdivision (e) of Section 361.5 that reasonable services will be
14 offered to a parent who is incarcerated in a county jail or state
15 prison, the case plan shall include information, to the extent
16 possible, about a parent's incarceration in a county jail or the state
17 prison during the time that a minor child of that parent is involved
18 in dependency care.

19 (4) Reasonable services shall be offered or provided to make it
20 possible for a child to return to a safe home environment, unless,
21 pursuant to subdivisions (b) and (e) of Section 361.5, the court
22 determines that reunification services shall not be provided.

23 (5) If reasonable services are not ordered, or are terminated,
24 reasonable efforts shall be made to place the child in a timely
25 manner in accordance with the permanent plan and to complete
26 all steps necessary to finalize the permanent placement of the child.

27 (c) (1) If out-of-home placement is used to attain case plan
28 goals, the case plan shall include a description of the type of home
29 or institution in which the child is to be placed, and the reasons
30 for that placement decision. The decision regarding choice of
31 placement shall be based upon selection of a safe setting that is
32 the least restrictive or most family like and the most appropriate
33 setting that is available and in close proximity to the parent's home,
34 proximity to the child's school, and consistent with the selection
35 of the environment best suited to meet the child's special needs
36 and best interests. The selection shall consider, in order of priority,
37 placement with relatives, nonrelated extended family members,
38 tribal members, and foster family homes, certified homes of foster
39 family agencies, intensive treatment or multidimensional treatment
40 foster care homes, group care placements, such as group homes

1 and community treatment facilities, and residential treatment
2 pursuant to Section 7950 of the Family Code.

3 (2) If a group care placement is selected for a child, the case
4 plan shall indicate the needs of the child that necessitate this
5 placement, ~~including the documentation required by subdivision~~
6 ~~(e) of Section 11403~~, the plan for transitioning the child to a less
7 restrictive environment, and the projected timeline by which the
8 child will be transitioned to a less restrictive environment. This
9 section of the case plan shall be reviewed and updated at least
10 semiannually.

11 (3) On or after January 1, 2012, for a nonminor dependent, as
12 defined in subdivision (v) of Section 11400, who is receiving
13 AFDC-FC benefits up to 21 years of age pursuant to Section 11403,
14 in addition to the above requirements, the selection of the
15 placement, including a supervised independent living placement,
16 as described in subdivision ~~(w)~~ (x) of Section 11400, shall also be
17 based upon the developmental needs of young adults by providing
18 opportunities to have incremental responsibilities that prepare a
19 nonminor dependent to transition to independent living. If
20 admission to, or continuation in, a group home placement is being
21 considered for a nonminor dependent, the group home placement
22 approval decision shall include a youth-driven, team-based case
23 planning process, as defined by the department, in consultation
24 with stakeholders. The case plan shall consider the full range of
25 placement options, and shall specify why admission to, or
26 continuation in, a group home placement is the best alternative
27 available at the time to meet the special needs or well-being of the
28 nonminor dependent, and how the placement will contribute to the
29 nonminor dependent's transition to independent living. The case
30 plan shall specify the treatment strategies that will be used to
31 prepare the nonminor dependent for discharge to a less restrictive
32 and more family-like setting, including a target date for discharge
33 from the group home placement. The placement shall be reviewed
34 and updated on a regular, periodic basis to ensure that continuation
35 in the group home remains in the best interests of the nonminor
36 dependent and that progress is being made in achieving case plan
37 goals leading to independent living. The group home placement
38 planning process shall begin as soon as it becomes clear to the
39 county welfare department or probation office that a foster child
40 in group home placement is likely to remain in group home

1 placement on his or her 18th birthday, in order to expedite the
2 transition to a less restrictive and more family-like setting if he or
3 she becomes a nonminor dependent. The case planning process
4 shall include informing the youth of all of his or her options,
5 including, but not limited to, admission to or continuation in a
6 group home placement. Consideration for continuation of existing
7 group home placement for a nonminor dependent under 19 years
8 of age may include the need to stay in the same placement in order
9 to complete high school. After a nonminor dependent either
10 completes high school or attains his or her 19th birthday, whichever
11 is earlier, continuation in or admission to a group home is
12 prohibited unless the nonminor dependent satisfies the conditions
13 of paragraph (5) of subdivision (b) of Section 11403, and group
14 home placement functions as a short-term transition to the
15 appropriate system of care. Treatment services provided by the
16 group home placement to the nonminor dependent to alleviate or
17 ameliorate the medical condition, as described in paragraph (5) of
18 subdivision (b) of Section 11403, shall not constitute the sole basis
19 to disqualify a nonminor dependent from the group home
20 placement.

21 (4) In addition to the requirements of paragraphs (1) to (3),
22 inclusive, and taking into account other statutory considerations
23 regarding placement, the selection of the most appropriate home
24 that will meet the child's special needs and best interests shall also
25 promote educational stability by taking into consideration
26 proximity to the child's school of origin, and school attendance
27 area, the number of school transfers the child has previously
28 experienced, and the child's school matriculation schedule, in
29 addition to other indicators of educational stability that the
30 Legislature hereby encourages the State Department of Social
31 Services and the State Department of Education to develop.

32 (d) A written case plan shall be completed within a maximum
33 of 60 days of the initial removal of the child or of the in-person
34 response required under subdivision (f) of Section 16501 if the
35 child has not been removed from his or her home, or by the date
36 of the dispositional hearing pursuant to Section 358, whichever
37 occurs first. The case plan shall be updated, as the service needs
38 of the child and family dictate. At a minimum, the case plan shall
39 be updated in conjunction with each status review hearing
40 conducted pursuant to ~~Section 366.21~~ *Sections 364, 366, 366.3,*

1 *and 366.31*, and the hearing conducted pursuant to Section 366.26,
2 but no less frequently than once every six months. Each updated
3 case plan shall include a description of the services that have been
4 provided to the child under the plan and an evaluation of the
5 appropriateness and effectiveness of those services.

6 (1) It is the intent of the Legislature that extending the maximum
7 time available for preparing a written case plan from 30 to 60 days
8 will afford caseworkers time to actively engage families, and to
9 solicit and integrate into the case plan the input of the child and
10 the child's family, as well as the input of relatives and other
11 interested parties.

12 (2) The extension of the maximum time available for preparing
13 a written case plan from the 30 to 60 days shall be effective 90
14 days after the date that the department gives counties written notice
15 that necessary changes have been made to the Child Welfare
16 Services Case Management System to account for the 60-day
17 timeframe for preparing a written case plan.

18 (e) The child welfare services case plan shall be comprehensive
19 enough to meet the juvenile court dependency proceedings
20 requirements pursuant to Article 6 (commencing with Section 300)
21 of Chapter 2 of Part 1 of Division 2.

22 (f) The case plan shall be developed as follows:

23 (1) The case plan shall be based upon an assessment of the
24 circumstances that required child welfare services intervention.
25 The child shall be involved in developing the case plan as age and
26 developmentally appropriate.

27 (2) The case plan shall identify specific goals and the
28 appropriateness of the planned services in meeting those goals.

29 (3) The case plan shall identify the original allegations of abuse
30 or neglect, as defined in Article 2.5 (commencing with Section
31 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
32 conditions cited as the basis for declaring the child a dependent of
33 the court pursuant to Section 300, or all of these, and the other
34 precipitating incidents that led to child welfare services
35 intervention.

36 (4) The case plan shall include a description of the schedule of
37 the social worker contacts with the child and the family or other
38 caretakers. The frequency of these contacts shall be in accordance
39 with regulations adopted by the State Department of Social
40 Services. If the child has been placed in foster care out of state,

1 the county social worker or a social worker on the staff of the
2 social services agency in the state in which the child has been
3 placed shall visit the child in a foster family home or the home of
4 a relative, consistent with federal law and in accordance with the
5 department's approved state plan. For children in out-of-state group
6 home facilities, visits shall be conducted at least monthly, pursuant
7 to Section 16516.5. At least once every six months, at the time of
8 a regularly scheduled social worker contact with the foster child,
9 the child's social worker shall inform the child of his or her rights
10 as a foster child, as specified in Section 16001.9. The social worker
11 shall provide the information to the child in a manner appropriate
12 to the age or developmental level of the child.

13 (5) (A) When out-of-home services are used, the frequency of
14 contact between the natural parents or legal guardians and the child
15 shall be specified in the case plan. The frequency of those contacts
16 shall reflect overall case goals, and consider other principles
17 outlined in this section.

18 (B) Information regarding any court-ordered visitation between
19 the child and the natural parents or legal guardians, and the terms
20 and conditions needed to facilitate the visits while protecting the
21 safety of the child, shall be provided to the child's out-of-home
22 caregiver as soon as possible after the court order is made.

23 (6) When out-of-home placement is made, the case plan shall
24 include provisions for the development and maintenance of sibling
25 relationships as specified in subdivisions (b), (c), and (d) of Section
26 16002. If appropriate, when siblings who are dependents of the
27 juvenile court are not placed together, the social worker for each
28 child, if different, shall communicate with each of the other social
29 workers and ensure that the child's siblings are informed of
30 significant life events that occur within their extended family.
31 Unless it has been determined that it is inappropriate in a particular
32 case to keep siblings informed of significant life events that occur
33 within the extended family, the social worker shall determine the
34 appropriate means and setting for disclosure of this information
35 to the child commensurate with the child's age and emotional
36 well-being. These significant life events shall include, but shall
37 not be limited to, the following:

38 (A) The death of an immediate relative.

39 (B) The birth of a sibling.

1 (C) Significant changes regarding a dependent child, unless the
2 child objects to the sharing of the information with his or her
3 siblings, including changes in placement, major medical or mental
4 health diagnoses, treatments, or hospitalizations, arrests, and
5 changes in the permanent plan.

6 (7) If out-of-home placement is made in a foster family home,
7 group home, or other child care institution that is either a
8 substantial distance from the home of the child's parent or out of
9 state, the case plan shall specify the reasons why that placement
10 is in the best interest of the child. When an out-of-state group home
11 placement is recommended or made, the case plan shall, in
12 addition, specify compliance with Section 7911.1 of the Family
13 Code.

14 (8) Effective January 1, 2010, a case plan shall ensure the
15 educational stability of the child while in foster care and shall
16 include both of the following:

17 (A) An assurance that the placement takes into account the
18 appropriateness of the current educational setting and the proximity
19 to the school in which the child is enrolled at the time of placement.

20 (B) An assurance that the placement agency has coordinated
21 with the person holding the right to make educational decisions
22 for the child and appropriate local educational agencies to ensure
23 that the child remains in the school in which the child is enrolled
24 at the time of placement or, if remaining in that school is not in
25 the best interests of the child, assurances by the placement agency
26 and the local educational agency to provide immediate and
27 appropriate enrollment in a new school and to provide all of the
28 child's educational records to the new school.

29 (9) (A) If out-of-home services are used, or if parental rights
30 have been terminated and the case plan is placement for adoption,
31 the case plan shall include a recommendation regarding the
32 appropriateness of unsupervised visitation between the child and
33 any of the child's siblings. This recommendation shall include a
34 statement regarding the child's and the siblings' willingness to
35 participate in unsupervised visitation. If the case plan includes a
36 recommendation for unsupervised sibling visitation, the plan shall
37 also note that information necessary to accomplish this visitation
38 has been provided to the child or to the child's siblings.

39 (B) Information regarding the schedule and frequency of the
40 visits between the child and siblings, as well as any court-ordered

1 terms and conditions needed to facilitate the visits while protecting
2 the safety of the child, shall be provided to the child's out-of-home
3 caregiver as soon as possible after the court order is made.

4 (10) If out-of-home services are used and the goal is
5 reunification, the case plan shall describe the services to be
6 provided to assist in reunification and the services to be provided
7 concurrently to achieve legal permanency if efforts to reunify fail.
8 The plan shall also consider in-state and out-of-state placements,
9 the importance of developing and maintaining sibling relationships
10 pursuant to Section 16002, and the desire and willingness of the
11 caregiver to provide legal permanency for the child if reunification
12 is unsuccessful.

13 (11) If out-of-home services are used, the child has been in care
14 for at least 12 months, and the goal is not adoptive placement, the
15 case plan shall include documentation of the compelling reason
16 or reasons why termination of parental rights is not in the child's
17 best interest. A determination completed or updated within the
18 past 12 months by the department when it is acting as an adoption
19 agency or by a licensed adoption agency that it is unlikely that the
20 child will be adopted, or that one of the conditions described in
21 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
22 be deemed a compelling reason.

23 (12) (A) Parents and legal guardians shall have an opportunity
24 to review the case plan, and to sign it whenever possible, and then
25 shall receive a copy of the plan. In a voluntary service or placement
26 agreement, the parents or legal guardians shall be required to
27 review and sign the case plan. Whenever possible, parents and
28 legal guardians shall participate in the development of the case
29 plan. Commencing January 1, 2012, for nonminor dependents, as
30 defined in subdivision (v) of Section 11400, who are receiving
31 AFDC-FC or *CalWORKs assistance* up to 21 years of age pursuant
32 to Section 11403, the transitional independent living case plan, as
33 set forth in subdivision (y) of Section 11400, shall be developed
34 with, and signed by, the nonminor.

35 (B) Parents and legal guardians shall be advised that, pursuant
36 to Section 1228.1 of the Evidence Code, neither their signature on
37 the child welfare services case plan nor their acceptance of any
38 services prescribed in the child welfare services case plan shall
39 constitute an admission of guilt or be used as evidence against the
40 parent or legal guardian in a court of law. However, they shall also

1 be advised that the parent's or guardian's failure to cooperate,
2 except for good cause, in the provision of services specified in the
3 child welfare services case plan may be used in any hearing held
4 pursuant to Section 366.21~~or 366.22~~, 366.22, or 366.25 as
5 evidence.

6 (13) A child shall be given a meaningful opportunity to
7 participate in the development of the case plan and state his or her
8 preference for foster care placement. A child who is 12 years of
9 age or older and in a permanent placement shall also be given the
10 opportunity to review the case plan, sign the case plan, and receive
11 a copy of the case plan.

12 (14) The case plan shall be included in the court report and shall
13 be considered by the court at the initial hearing and each review
14 hearing. Modifications to the case plan made during the period
15 between review hearings need not be approved by the court if the
16 casework supervisor for that case determines that the modifications
17 further the goals of the plan. If out-of-home services are used with
18 the goal of family reunification, the case plan shall consider and
19 describe the application of subdivision (b) of Section 11203.

20 (15) If the case plan has as its goal for the child a permanent
21 plan of adoption or placement in another permanent home, it shall
22 include a statement of the child's wishes regarding their permanent
23 placement plan and an assessment of those stated wishes. The
24 agency shall also include documentation of the steps the agency
25 is taking to find an adoptive family or other permanent living
26 arrangements for the child; to place the child with an adoptive
27 family, an appropriate and willing relative, a legal guardian, or in
28 another planned permanent living arrangement; and to finalize the
29 adoption or legal guardianship. At a minimum, the documentation
30 shall include child-specific recruitment efforts, such as the use of
31 state, regional, and national adoption exchanges, including
32 electronic exchange systems, when the child has been freed for
33 adoption. If the plan is for kinship guardianship, the case plan shall
34 document how the child meets the kinship guardianship eligibility
35 requirements.

36 (16) (A) When appropriate, for a child who is 16 years of age
37 or older and, commencing January 1, 2012, for a nonminor
38 dependent, the case plan shall include *the transitional independent*
39 *living plan (TILP)*, a written description of the ~~programs~~ *programs*
40 and services that will help the child, consistent with the child's

1 best interests, prepare for the transition from foster care to
2 independent living, and, *in addition*, whether the youth has an
3 in-progress application pending for Title XVI Supplemental
4 Security Income benefits or for Special-Juvenile-Immigration
5 *Immigrant Juvenile* Status or other applicable application for legal
6 residency and an active dependency case is required for that
7 application. When appropriate, for a nonminor dependent, the
8 *transitional independent living* case plan, *as described in*
9 *subdivision (v) of Section 11400*, shall include *the TILP*, a written
10 description of the ~~program~~ *programs* and services that will help
11 the nonminor dependent, consistent with his or her best interests,
12 to prepare for transition from foster care and assist the youth in
13 meeting the eligibility criteria set forth in *paragraphs (1) to (5)*,
14 *inclusive, of subdivision (b) of Section 11403*. If applicable, the
15 case plan shall describe the individualized supervision provided
16 in the supervised independent living ~~setting~~ *placement* as defined;
17 in ~~subdivision (w)~~ *(x)* of Section 11400. The case plan shall be
18 developed with the child or nonminor dependent and individuals
19 identified as important to the child or nonminor dependent, and
20 shall include steps the agency is taking to ensure that the child or
21 nonminor dependent achieves permanence, including maintaining
22 or obtaining permanent connections to caring and committed adults.

23 (B) During the 90-day period prior to the participant attaining
24 18 years of age or older as the state may elect under Section
25 475(8)(B)(iii) ~~(42 U.S.C. Sec. 675(8)(B)(iii))~~ of the federal Social
26 Security Act ~~(42 U.S.C. Sec. 675(8)(B)(iii))~~, whether during that
27 period foster care maintenance payments are being made on the
28 child's behalf or the child is receiving benefits or services under
29 Section 477 ~~(42 U.S.C. Sec. 677)~~ of the federal Social Security
30 Act ~~(42 U.S.C. Sec. 677)~~, a caseworker or other appropriate agency
31 staff or probation officer and other representatives of the
32 participant, as appropriate, shall provide the youth or nonminor
33 with assistance and support in developing the written 90-day
34 transition plan, that is personalized at the direction of the child,
35 information as detailed as the participant elects that shall include,
36 but not be limited to, options regarding housing, health insurance,
37 education, local opportunities for mentors and continuing support
38 services, and workforce supports and employment services, a
39 power of attorney for health care and information regarding the
40 advance health care directive form.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services. *The nonminor dependent's caregiver shall be provided with a copy of the nonminor's TILP.*

(k) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a monthly basis by October 1, 2011, and that the majority of the visits occur in the residence of the child. The plan shall include any data reporting requirements necessary to comply with the provisions of the federal Child and Family Services Improvement Act of 2006 (Public Law 109-288).

(l) The implementation and operation of the amendments to subdivision (i) enacted at the 2005–06 Regular Session shall be

1 subject to appropriation through the budget process and by phase,
2 as provided in Section 366.35.

3 ~~SEC. 60. Section 16501.3 of the Welfare and Institutions Code~~
4 ~~is amended to read:~~

5 ~~16501.3. (a) The State Department of Social Services shall~~
6 ~~establish a program of public health nursing in the child welfare~~
7 ~~services program. The purpose of the public health nursing program~~
8 ~~shall be to identify, respond to, and enhance the physical, mental,~~
9 ~~dental, and developmental well-being of children in the child~~
10 ~~welfare system.~~

11 ~~(b) Counties shall use the services of a foster care public health~~
12 ~~nurse. The foster care public health nurse shall work with the~~
13 ~~appropriate child welfare services workers to coordinate health~~
14 ~~care services and serve as a liaison with health care professionals~~
15 ~~and other providers of health-related services. This shall include~~
16 ~~coordination with county mental health plans and local health~~
17 ~~jurisdictions, as appropriate.~~

18 ~~(c) The duties of a foster care public health nurse shall include,~~
19 ~~but need not be limited to, the following:~~

20 ~~(1) Documenting that each child in foster care receives initial~~
21 ~~and followup health screenings that meet reasonable standards of~~
22 ~~medical practice.~~

23 ~~(2) Collecting health information and other relevant data on~~
24 ~~each foster child as available, receiving all collected information~~
25 ~~to determine appropriate referral and services, and expediting~~
26 ~~referrals to providers in the community for early intervention~~
27 ~~services, specialty services, dental care, mental health services,~~
28 ~~and other health-related services necessary for the child.~~

29 ~~(3) Participating in medical care planning and coordinating for~~
30 ~~the child. This may include, but is not limited to, assisting case~~
31 ~~workers in arranging for comprehensive health and mental health~~
32 ~~assessments, interpreting the results of health assessments or~~
33 ~~evaluations for the purpose of case planning and coordination,~~
34 ~~facilitating the acquisition of any necessary court authorizations~~
35 ~~for procedures or medications, advocating for the health care needs~~
36 ~~of the child and ensuring the creation of linkage among various~~
37 ~~providers of care.~~

38 ~~(4) Providing followup contact to assess the child's progress in~~
39 ~~meeting treatment goals.~~

~~(5) At the request of and under the direction of the nonminor dependent, as described in subdivision (v) of Section 11400, assist the nonminor dependent in accessing health and mental health care, coordinating the delivery of health and mental health care services, advocating for the health and mental health care that meets the needs of the nonminor dependent, and to assist the nonminor dependent to assume responsibility for his or her ongoing health care management.~~

~~(d) The services provided by foster care public health nurses under this section shall be limited to those for which reimbursement may be claimed under Title XIX at an enhanced rate for services delivered by skilled professional medical personnel. Notwithstanding any other provision of law, this section shall be implemented only if, and to the extent that, the department determines that federal financial participation, as provided under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), is available.~~

~~(e) Notwithstanding Section 10101 of the Welfare and Institutions Code, there shall be no required county match of the nonfederal cost of this program.~~

SEC. 57. Section 16501.3 of the Welfare and Institutions Code is amended to read:

16501.3. (a) The State Department of Social Services shall establish a program of public health nursing in the child welfare services program. The purpose of the public health nursing program shall be to identify, respond to, and enhance the physical, mental, dental, and developmental well-being of children in the child welfare system.

(b) Under this program, counties shall use the services of a foster care public health nurse. The foster care public health nurse shall work with the appropriate child welfare services workers to coordinate health care services and serve as a liaison with health care professionals and other providers of health-related services. This shall include coordination with county mental health plans and local health jurisdictions, as appropriate.

(c) The duties of a foster care public health nurse shall include, but need not be limited to, the following:

(1) Documenting that each child in foster care receives initial and followup health screenings that meet reasonable standards of medical practice.

1 (2) Collecting health information and other relevant data on
2 each foster child as available, receiving all collected information
3 to determine appropriate referral and services, and expediting
4 referrals to providers in the community for early intervention
5 services, specialty services, dental care, mental health services,
6 and other health-related services necessary for the child.

7 (3) Participating in medical care planning and coordinating for
8 the child. This may include, but is not limited to, assisting case
9 workers in arranging for comprehensive health and mental health
10 assessments, interpreting the results of health assessments or
11 evaluations for the purpose of case planning and coordination,
12 facilitating the acquisition of any necessary court authorizations
13 for procedures or medications, advocating for the health care needs
14 of the child and ensuring the creation of linkage among various
15 providers of care.

16 (4) Providing ~~follow-up~~ *followup* contact to assess the child's
17 progress in meeting treatment goals.

18 (5) *At the request of and under the direction of the nonminor*
19 *dependent, as described in subdivision (v) of Section 11400, assist*
20 *the nonminor dependent in accessing health and mental health*
21 *care, coordinating the delivery of health and mental health care*
22 *services, advocating for the health and mental health care that*
23 *meets the needs of the nonminor dependent, and to assist the*
24 *nonminor dependent to assume responsibility for his or her ongoing*
25 *health care management.*

26 (d) The services provided by foster care public health nurses
27 under this section shall be limited to those for which reimbursement
28 may be claimed under Title XIX at an enhanced rate for services
29 delivered by skilled professional medical personnel.
30 Notwithstanding any other provision of law, this section shall be
31 implemented only if, and to the extent that, the department
32 determines that federal financial participation, as provided under
33 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396
34 et seq.), is available.

35 (e) (1) The State Department of Health Care Services shall seek
36 any necessary federal approvals for child welfare agencies to
37 appropriately claim enhanced federal Title XIX funds for services
38 provided pursuant to this section.

39 (2) Commencing in the fiscal year immediately following the
40 fiscal year in which the necessary federal approval pursuant to

paragraph (1) is secured, county child welfare agencies shall provide health care oversight services pursuant to this section, and may accomplish this through agreements with local public health agencies.

(f) (1) Notwithstanding Section 10101, prior to the 2011–12 fiscal year, there shall be no required county match of the nonfederal cost of this program.

(2) Commencing in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

~~SEC. 61.~~

SEC. 58. Section 16503.5 of the Welfare and Institutions Code is amended to read:

16503.5. (a) A placing agency shall provide a caregiver placement agreement to the child’s or nonminor dependent’s caregiver at the time of the child’s placement with that caregiver.

(b) (1) For purposes of this section, “caregiver placement agreement” means a written agreement between the placing agency and the child’s or nonminor dependent’s caregiver. The department shall approve the format and content of the placement agreement form to be used by a placing agency.

(2) For purposes of this section, “nonminor dependent” means an individual described in subdivision (v) of Section 11400.

(c) The agreement shall describe the terms and conditions of the placement and any agreements made by the placing agency and the child’s or nonminor’s caregiver.

(d) The agreement shall provide, at a minimum, the contact information for the placing agency’s social worker and the worker’s supervisor, including, but not limited to, telephone numbers, facsimile numbers, and identifying information about the child or nonminor, including, but not limited to, the child’s or nonminor’s social security number, if available, the child’s or nonminor’s Medi-Cal number or group health plan number and information, if available, and the child’s or nonminor’s State Department of Social Services identification number.

(e) A county placing agency may modify the forms to meet local needs by adding to the form requirements for information,

1 but may not delete the form's core elements as determined by the
2 department.

3 ~~SEC. 62.~~

4 *SEC. 59.* Section 16507 of the Welfare and Institutions Code
5 is amended to read:

6 16507. (a) Family reunification services shall be provided or
7 arranged for by county welfare department staff in order to reunite
8 the child separated from his or her parent because of abuse, neglect,
9 or exploitation. These services shall not exceed 12 months except
10 as provided in subdivision (a) of Section 361.5 and subdivision
11 (c) of Section 366.3. Family reunification services pursuant to
12 Section 361.6 may be provided to nonminor dependents as
13 described in subdivision (v) of Section 11400. Family reunification
14 services shall be available without regard to income to families
15 whose child has been adjudicated or is in the process of being
16 adjudicated a dependent child of the court under the provisions of
17 Section 300. Family reunification services shall include a plan for
18 visitation of the child by his or her grandparents, where the
19 visitation is in the best interests of the child and will serve to
20 maintain and strengthen the family relationships of the child.

21 (b) Family reunification services shall only be provided when
22 a child has been placed in out-of-home care, or is in the care of a
23 previously noncustodial parent under the supervision of the juvenile
24 court.

25 (c) When a minor has been placed in foster care with a
26 nonparent, family reunification services may be provided to one
27 or both parents.

28 (d) When a county child welfare services agency is providing
29 one parent with reunification services and the other parent is
30 serving a prison term for the conviction of child abuse, pursuant
31 to Section 273a, 273ab, or 273d of the Penal Code, any sex offense
32 specified as being perpetrated against a minor, or an act of domestic
33 violence, the county child welfare services agency may request
34 that the Board of Prison Terms, with respect to inmates sentenced
35 pursuant to subdivision (b) of Section 1168 of the Penal Code, or
36 the Department of Corrections, with respect to inmates sentenced
37 pursuant to Section 1170 of the Penal Code, provide the agency,
38 during the time in which reunification services are being provided,
39 with notification that the person is scheduled to be released on

1 parole, or rereleased following a period of confinement pursuant
2 to a parole revocation without a new commitment.

3 ~~SEC. 63. Section 16508 of the Welfare and Institutions Code,~~
4 ~~as amended by Section 68 of Chapter 559 of the Statutes of 2010,~~
5 ~~is amended to read:~~

6 ~~16508. Permanent placement services shall be provided or~~
7 ~~arranged for by county welfare department staff for children who~~
8 ~~cannot safely live with their parents and are not likely to return to~~
9 ~~their own homes, and to nonminor dependents in planned~~
10 ~~permanent living arrangements. Permanent placement services,~~
11 ~~including supportive transition services, shall be available without~~
12 ~~regard to income to the following children:~~

13 ~~(a) Children judged dependent under Section 300 where a review~~
14 ~~has determined that reunification, adoption, tribal customary~~
15 ~~adoption, or guardianship is inappropriate.~~

16 ~~(b) Recipients of public assistance under the nonfederally funded~~
17 ~~Aid to Families with Dependent Children Foster Care program~~
18 ~~who are wards of a legal guardian pursuant to Section 11405, where~~
19 ~~a review has determined that reunification or adoption is~~
20 ~~inappropriate.~~

21 ~~(c) On and after January 1, 2012, nonminor dependents, as~~
22 ~~defined in subdivision (v) of Section 11400, who are receiving~~
23 ~~AFDC-FC or CalWORKs assistance pursuant to Section 11403.~~

24 ~~(d) For purposes of this section, "supportive transition services"~~
25 ~~refers to permanent placement services provided to nonminor~~
26 ~~dependents as described in subdivision (v) of Section 11400.~~

27 ~~(e) This section shall remain in effect only until January 1, 2014,~~
28 ~~and as of that date is repealed, unless a later enacted statute, that~~
29 ~~is enacted before January 1, 2014, deletes or extends that date.~~

30 ~~SEC. 64. Section 16508 of the Welfare and Institutions Code,~~
31 ~~as amended by Section 69 of Chapter 559 of the Statutes of 2010,~~
32 ~~is amended to read:~~

33 ~~16508. Permanent placement services shall be provided or~~
34 ~~arranged for by county welfare department staff for children who~~
35 ~~cannot safely live with their parents and are not likely to return to~~
36 ~~their own homes, and to nonminor dependents in planned~~
37 ~~permanent living arrangements. Permanent placement services,~~
38 ~~including supportive transition services, shall be available without~~
39 ~~regard to income to the following children:~~

1 ~~(a) Children judged dependent under Section 300 where a review~~
2 ~~has determined that reunification, adoption, or guardianship is~~
3 ~~inappropriate.~~

4 ~~(b) Recipients of public assistance under the nonfederally funded~~
5 ~~Aid to Families with Dependent Children Foster Care program~~
6 ~~who are wards of a legal guardian pursuant to Section 11405, where~~
7 ~~a review has determined that reunification or adoption is~~
8 ~~inappropriate.~~

9 ~~(c) On and after January 1, 2012, nonminor dependents, as~~
10 ~~defined in subdivision (v) of Section 11400, who are receiving~~
11 ~~AFDC-FC or CalWORKs assistance pursuant to Section 11403.~~

12 ~~(d) For purposes of this section, "supportive transition services"~~
13 ~~refers to permanent placement services provided to nonminor~~
14 ~~dependents as described in subdivision (v) of Section 11400.~~

15 ~~(e) This section shall become operative on January 1, 2014.~~

16 *SEC. 60. Section 16508 of the Welfare and Institutions Code*
17 *is amended to read:*

18 16508. Permanent placement services shall be provided or
19 arranged for by county welfare department staff for children who
20 cannot safely live with their parents and are not likely to return to
21 their own homes, *and to nonminor dependents in planned*
22 *permanent living arrangements.* Permanent placement services,
23 *including supportive transition services,* shall be available without
24 regard to income to the following children:

25 (a) Children judged dependent under Section 300 where a review
26 has determined that reunification, adoption, tribal customary
27 adoption, or guardianship is inappropriate.

28 (b) Recipients of public assistance under the nonfederally funded
29 Aid to Families with Dependent Children Foster Care program
30 who are wards of a legal guardian pursuant to Section 11405, where
31 a review has determined that reunification or adoption is
32 inappropriate.

33 (c) On and after January 1, 2012, nonminor dependents, as
34 defined in subdivision (v) of Section 11400, who are receiving
35 AFDC-FC pursuant to Section 11403.

36 (d) *For purposes of this section, "supportive transition services"*
37 *means permanent placement services provided to nonminor*
38 *dependents as described in subdivision (v) of Section 11400.*

1 ~~SEC. 65.~~

2 *SEC. 61.* Section 16514 of the Welfare and Institutions Code
3 is amended to read:

4 16514. (a) A minor who has been voluntarily placed, adjudged
5 a dependent child of the juvenile court pursuant to Section 300,
6 or as to whom a petition has been filed under Section 325, may be
7 housed in an emergency shelter or, pursuant to the procedures for
8 placement set forth in this code, placed in a foster family home,
9 or with a foster family agency for subsequent placement in a
10 suitable licensed foster family home or certified family home, with
11 minors adjudged wards of the juvenile court pursuant to Section
12 601.

13 (b) A minor who has been voluntarily placed, adjudged a
14 dependent child of the juvenile court pursuant to Section 300, or
15 adjudged a ward of the juvenile court pursuant to Section 601,
16 shall not be housed in an emergency shelter with any minor
17 adjudged a ward of the juvenile court pursuant to Section 602.

18 (c) A minor or nonminor who has been voluntarily placed,
19 adjudged a dependent child of the juvenile court pursuant to Section
20 300, or as to whom a petition has been filed under Section 325, or
21 a nonminor dependent, as described in subdivision (v) of Section
22 11400, shall not be placed or detained in a group home or licensed
23 foster family home or with a foster family agency to be
24 subsequently placed in a certified family home with any minor
25 adjudged a ward of the juvenile court pursuant to Section 601 or
26 602, unless the social worker or probation officer has determined
27 that the group home or licensed foster family home or foster family
28 agency has a program that meets the specific needs of the minor
29 or nonminor dependent being placed or detained, and there is a
30 commonality of needs with the other minors and nonminor
31 dependents in the group home or licensed foster family home or
32 certified family home.

33 (d) Nothing in this section shall transfer or eliminate the
34 responsibility of the placing agency for the care, custody, or control
35 of the child. Nothing in this section shall relieve a foster family
36 agency of its responsibilities for or on behalf of a child placed with
37 it.

38 For purposes of this section, the placing of children or nonminor
39 dependents by foster family agencies shall be referred to as

1 “subsequent placement” to distinguish the activity from the placing
2 by public agencies.

3 ~~SEC. 66.~~

4 *SEC. 62.* Section 16521.5 of the Welfare and Institutions Code
5 is amended to read:

6 16521.5. (a) A foster care provider, in consultation with the
7 county case manager, shall be responsible for ensuring that
8 adolescents, including nonminor dependents, as described in
9 subdivision (v) of Section 11400, who remain in long-term foster
10 care, as defined by the department, receive age-appropriate
11 pregnancy prevention information to the extent state and county
12 resources are provided.

13 (b) A foster care provider, in consultation with the county case
14 manager, shall be responsible for ensuring that a foster youth or
15 nonminor dependent is provided with appropriate referrals to health
16 services when the foster youth either reaches 18 years of age or
17 the nonminor dependent exits foster care, and to the extent county
18 and state resources are provided.

19 (c) As part of the home study process, the prospective foster
20 care provider shall notify the county if he or she objects to
21 participating in adolescent pregnancy prevention training or the
22 dissemination of information pursuant to subdivisions (a) and (b).
23 A licensed foster care provider shall notify the county if he or she
24 objects to participation. If the provider objects, the county case
25 manager shall assume this responsibility.

26 (d) Subdivisions (a), (b), and (c) shall not take effect until the
27 department, in consultation with the workgroup, develops
28 guidelines that describe the duties and responsibilities of foster
29 care providers and county case managers in delivering pregnancy
30 prevention services and information.

31 (e) (1) The department, in consultation with the State
32 Department of Health Services, shall convene a ~~workinggroup~~
33 *working group* for the purpose of developing a pregnancy
34 prevention plan that will effectively address the needs of adolescent
35 male and female foster youth. The workgroup shall meet not more
36 than three times and thereafter shall provide consultation to the
37 department upon request.

38 (2) The working group shall include representatives from the
39 California Youth Connection, the Foster Parent’s Association,
40 group home provider associations, the County Welfare Director’s

1 Association, providers of teen pregnancy prevention programs, a
2 foster care case worker, an expert in pregnancy prevention
3 curricula, a representative of the Independent Living Program, and
4 an adolescent health professional.

5 (f) The plan required pursuant to subdivision (e) shall include,
6 but not be limited to, all of the following:

7 (1) Effective strategies and programs for preteen and older teen
8 foster youth and nonminor dependents.

9 (2) The role of foster care and group home care providers.

10 (3) The role of the assigned case management worker.

11 (4) How to involve foster youth and nonminor peers.

12 (5) Selecting and providing appropriate materials to educate
13 foster youth and nonminors in family life education.

14 (6) The training of foster care and group home care providers
15 and, when necessary, county case managers in adolescent
16 pregnancy prevention.

17 (g) Counties currently mandating foster care provider training
18 shall be encouraged to include the pregnancy prevention curricula
19 guidelines and educational materials that may be developed by the
20 workgroup pursuant to subdivision (f).

21 (h) The department shall adopt regulations to implement this
22 section.

23 ~~SEC. 67. Section 16522 of the Welfare and Institutions Code~~
24 ~~is amended to read:~~

25 ~~16522. (a) The State Department of Social Services shall adopt~~
26 ~~regulations to govern county transitional housing placement~~
27 ~~programs that provide supervised housing services to persons at~~
28 ~~least 16 years of age and not more than 18 years of age, except~~
29 ~~nonminor dependents, as described in subdivision (v) of Section~~
30 ~~11400, when it is in their best interest to remain in the facility in~~
31 ~~order to complete high school or its equivalent, or to finish the~~
32 ~~high school year prior to their 19th birthday, as provided for in~~
33 ~~paragraph (1) of subdivision (a) of Section 11403.2, and who meet~~
34 ~~all of the following conditions:~~

35 ~~(1) Meet the requirements of Section 11401.~~

36 ~~(2) Are in out-of-home placement under the supervision of the~~
37 ~~county child welfare services department or the county probation~~
38 ~~department.~~

39 ~~(3) Are participating in, or have successfully completed an~~
40 ~~independent living program.~~

1 ~~(b) A transitional housing program may also serve any person~~
2 ~~under 21 years of age who is receiving aid under Section 11403.1.~~
3 ~~The THP-Plus Foster Care program shall serve nonminor~~
4 ~~dependents, as described in subdivisions (v) and (x) of Section~~
5 ~~11400.~~

6 ~~(c) The department may structure statewide implementation of~~
7 ~~transitional housing placement programs on a phased-in basis.~~

8 ~~(d) Transitional housing placement program services shall~~
9 ~~include any of the following:~~

10 ~~(1) Programs in which one or more participants in the program~~
11 ~~live in an apartment, single-family dwelling, or condominium with~~
12 ~~an adult employee of the provider.~~

13 ~~(2) Programs in which a participant lives independently in an~~
14 ~~apartment, single-family dwelling, or condominium rented or~~
15 ~~leased by the provider located in a building in which one or more~~
16 ~~adult employees of the provider reside and provide supervision.~~

17 ~~(3) Programs in which a participant lives independently in an~~
18 ~~apartment, single-family dwelling, or condominium rented or~~
19 ~~leased by a provider under the supervision of the provider if the~~
20 ~~State Department of Social Services provides approval.~~

21 ~~(e) The regulations, including regulations for the THP-Plus~~
22 ~~Foster Care program, shall be age-appropriate and recognize that~~
23 ~~youth who are about to emancipate from the foster care system~~
24 ~~should be subject to fewer restrictions than those who are younger.~~
25 ~~At a minimum, the regulations shall provide for both of the~~
26 ~~following:~~

27 ~~(1) Require programs that serve youth who are both in and out~~
28 ~~of the foster care system to have separate rules and program design,~~
29 ~~as appropriate, for these two groups of youth.~~

30 ~~(2) Allow youth who have emancipated from the foster care~~
31 ~~system to have the greatest amount of freedom possible in order~~
32 ~~to prepare them for self-sufficiency.~~

33 ~~SEC. 68. Section 16522.1 of the Welfare and Institutions Code~~
34 ~~is amended to read:~~

35 ~~16522.1. In order to be licensed pursuant to Section 1559.110~~
36 ~~of the Health and Safety Code, an applicant shall obtain~~
37 ~~certification from the county department of social services or the~~
38 ~~county probation department that the facility program provides all~~
39 ~~of the following:~~

~~(a) (1) Admission criteria for participants in the program, including, but not limited to, consideration of the applicant's age, previous placement history, delinquency history, history of drug or alcohol abuse, current strengths, level of education, mental health history, medical history, prospects for successful participation in the program, and work experience. Youth who are wards of the court described in Section 602 and youth receiving psychotropic medications shall be eligible for consideration to participate in the program, and shall not be automatically excluded due to these factors.~~

~~(2) The department shall review the admission criteria to ensure that the criteria are sufficient to protect participants and that they do not discriminate on the basis of any characteristic listed or defined in Section 11135 of the Government Code.~~

~~(b) Strict employment criteria that include a consideration of the employee's age, drug or alcohol history, and experience in working with persons in this age group.~~

~~(c) A training program designed to educate employees who work directly with participants about the characteristics of persons in this age group placed in long-term care settings, and designed to ensure that these employees are able to adequately supervise and counsel participants and to provide them with training in independent living skills.~~

~~(d) A detailed plan for monitoring the placement of persons under the licensee's care.~~

~~(e) A contract between the participating person and the licensee that specifically sets out the requirements for each party, and in which the licensee and the participant agree to the requirements of this article.~~

~~(f) An allowance to be provided to each participant in the program. In the case of a participant living independently, this allowance shall be sufficient for the participant to purchase food and other necessities.~~

~~(g) A system for payment for utilities, telephone, and rent.~~

~~(h) Policies regarding all of the following:~~

~~(1) Education requirements.~~

~~(2) Work expectations.~~

~~(3) Savings requirements.~~

~~(4) Personal safety.~~

1 ~~(5) Visitors, including, but not limited to, visitation by the~~
2 ~~placement auditor pursuant to subdivision (d).~~

3 ~~(6) Emergencies.~~

4 ~~(7) Medical problems.~~

5 ~~(8) Disciplinary measures.~~

6 ~~(9) Child care.~~

7 ~~(10) Pregnancy.~~

8 ~~(11) Curfew.~~

9 ~~(12) Apartment cleanliness.~~

10 ~~(13) Use of utilities and telephone.~~

11 ~~(14) Budgeting.~~

12 ~~(15) Care of furnishings.~~

13 ~~(16) Decorating of apartments.~~

14 ~~(17) Cars.~~

15 ~~(18) Lending or borrowing money.~~

16 ~~(19) Unauthorized purchases.~~

17 ~~(20) Dating.~~

18 ~~(21) Grounds for termination that may include, but shall not be~~
19 ~~limited to, illegal activities or harboring runaways.~~

20 ~~(i) Apartment furnishings, and a policy on disposition of the~~
21 ~~furnishings when the participant completes the program.~~

22 ~~(j) Evaluation of the participant's progress in the program and~~
23 ~~reporting to the independent living program and to the department~~
24 ~~regarding that progress.~~

25 ~~(k) A linkage to the federal Workforce Investment Act of 1998~~
26 ~~(29 U.S.C. Sec. 2801 et seq.) program administered in the local~~
27 ~~area to provide employment training to eligible participants.~~

28 ~~(l) For purposes of this section, an applicant includes a person~~
29 ~~or program applying for licensing of the THP-Plus Foster Care~~
30 ~~program, as described in Section 11403.2.~~

31 *SEC. 63. Section 16522 of the Welfare and Institutions Code*
32 *is amended to read:*

33 16522. (a) The State Department of Social Services shall adopt
34 regulations to govern licensed transitional housing placement
35 providers that provide supervised transitional housing to foster
36 children at least 16 years of age and not more than 18 years of age,
37 and nonminor dependents, as defined in subdivision (v) of Section
38 11400.

39 (b) The department may structure statewide implementation of
40 transitional housing placement providers on a phased-in basis.

(c) (1) Transitional Housing Program-Plus providers, as defined in subdivision (s) of Section 11400, shall not be subject to licensure pursuant to Section 1559.110 of the Health and Safety Code, if they are certified to provide transitional housing by the applicable county and have obtained a local fire clearance.

(2) By July 31, 2012, the department shall establish certification standards and procedures for the THP-Plus Foster Care program, as described in subdivision (c) of Section 16522.1, in consultation with the County Welfare Directors Association, the California Youth Connection, county probation departments, provider representatives, and other stakeholders, as appropriate.

(d) Transitional housing placement providers shall certify that housing units comply with the health and safety standards set forth in paragraph (5) of subdivision (b) of Section 1501 of the Health and Safety Code. Transitional housing shall include any of the following:

(1) Programs in which one or more participants in the program live in an apartment, single-family dwelling, or condominium with an adult employee of the provider, or host family home.

(2) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or leased by the provider located in a building in which one or more adult employees of the provider reside and provide supervision.

(3) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or leased by a provider under the supervision of the provider if the State Department of Social Services provides approval. ~~Effective October 1, 2012, the housing model described in this paragraph shall be available only for the placement of nonminor dependents. The housing model described in this paragraph shall be available to minor foster children, if placed prior to October 1, 2012, and to nonminor dependents.~~

(e) The regulations shall be age-appropriate and recognize that youth who are about to exit from the foster care system should be subject to fewer restrictions than those who are foster children. At a minimum, the regulations shall provide for both of the following:

(1) Require programs that serve youth who are both in and out of the foster care system to have separate rules and program design, as appropriate, for these two groups of youth.

1 (2) Allow youth who have exited from the foster care system,
2 on or after their 18th birthday, to have the greatest amount of
3 freedom possible in order to prepare them for their transition to
4 adulthood.

5 (f) The regulations governing licensed transitional housing
6 placement providers that serve nonminor dependents shall be age
7 appropriate and recognize that nonminor dependents who are about
8 to exit from the foster care system should be subject to fewer
9 restrictions than those who are foster children. At a minimum, the
10 regulations shall provide for both of the following:

11 (1) Require programs that serve foster children and nonminor
12 dependents to have separate rules and program design, as
13 appropriate, for these two groups of youth.

14 (2) Allow nonminor dependents to have the greatest amount of
15 freedom possible in order to prepare them for their transition to
16 adulthood, in accordance with paragraph (1) of subdivision (b) of
17 Section 1502.7 of the Health and Safety Code.

18 *SEC. 64. Section 16522.1 of the Welfare and Institutions Code*
19 *is amended to read:*

20 16522.1. (a) In order to be licensed as a transitional housing
21 placement provider pursuant to Section 1559.110 of the Health
22 and Safety Code and be eligible for payment of AFDC-FC benefits
23 pursuant to Sections 11403.2 and 11403.3, an applicant shall obtain
24 certification from the applicable county specifying whether the
25 facility will serve foster youth at least 16 years of age and not more
26 than 18 years of age, nonminor dependents, as defined in
27 subdivision (v) of Section 11400, or both, as follows:

28 (1) A program serving foster children at least 16 years of age
29 and not more than 18 years of age shall obtain a certification
30 entitled "Transitional Housing Placement Program."

31 (2) A program serving nonminor dependents at least 18 years
32 of age and not more than 21 years of age shall obtain a certification
33 entitled a "Transitional Housing Placement-Plus Foster Care
34 program."

35 (b) The certification for the Transitional Housing Placement
36 Program shall confirm that the program provides for all of the
37 following:

38 (1) Admission criteria for participants in the program, including,
39 but not limited to, consideration of the applicant's age, previous
40 placement history, delinquency history, history of drug or alcohol

1 abuse, current strengths, level of education, mental health history,
2 medical history, prospects for successful participation in the
3 program, and work experience. Youth who are wards of the court
4 described in Section 602 and youth receiving psychotropic
5 medications shall be eligible for consideration to participate in the
6 program, and shall not be automatically excluded due to these
7 factors.

8 (2) The department shall review the admission criteria to ensure
9 that the criteria are sufficient to protect participants and that they
10 do not discriminate on the basis of any characteristic listed or
11 defined in Section 11135 of the Government Code.

12 (3) Strict employment criteria that include a consideration of
13 the employee's age, drug or alcohol history, and experience in
14 working with persons in this age group.

15 (4) A training program designed to educate employees who
16 work directly with participants about the characteristics of persons
17 in this age group placed in long-term care settings, and designed
18 to ensure that these employees are able to adequately supervise
19 and counsel participants and to provide them with training in
20 independent living skills.

21 (5) A detailed plan for monitoring the placement of persons
22 under the licensee's care.

23 (6) A contract between the participating person and the licensee
24 that specifically sets out the requirements for each party, and in
25 which the licensee and the participant agree to the requirements
26 of this article.

27 (7) An allowance to be provided to each participant in the
28 program. In the case of a participant living independently, this
29 allowance shall be sufficient for the participant to purchase food
30 and other necessities.

31 (8) A system for payment for utilities, telephone, and rent.

32 (9) Policies regarding all of the following:

33 (A) Education requirements.

34 (B) Work expectations.

35 (C) Savings requirements.

36 (D) Personal safety.

37 (E) Visitors, including, but not limited to, visitation by the
38 placement auditor pursuant to paragraph (5).

39 (F) Emergencies.

40 (G) Medical problems.

- 1 (H) Disciplinary measures.
- 2 (I) Child care.
- 3 (J) Pregnancy.
- 4 (K) Curfew.
- 5 (L) Apartment cleanliness.
- 6 (M) Use of utilities and telephone.
- 7 (N) Budgeting.
- 8 (O) Care of furnishings.
- 9 (P) Decorating of apartments.
- 10 (Q) Cars.
- 11 (R) Lending or borrowing money.
- 12 (S) Unauthorized purchases.
- 13 (T) Dating.
- 14 (U) Grounds for termination that may include, but shall not be
- 15 limited to, illegal activities or harboring runaways.
- 16 (10) Apartment furnishings, and a policy on disposition of the
- 17 furnishings when the participant completes the program.
- 18 (11) Evaluation of the participant's progress in the program and
- 19 reporting to the independent living program and to the department
- 20 regarding that progress.
- 21 (12) A linkage to the federal Workforce Investment Act of 1998
- 22 (29 U.S.C. Sec. 2801 et seq.) program administered in the local
- 23 area to provide employment training to eligible participants.
- 24 (13) *Effective January 1, 2013, a program staffing ratio of case*
- 25 *manager to client of no less than 12 to 1.*
- 26 (c) The certification for the Transitional Housing Placement-Plus
- 27 Foster Care program for nonminor dependents, as described in
- 28 paragraph (2) of subdivision (a), from the applicable county shall
- 29 include all of the following:
- 30 (1) That the program is needed by the county.
- 31 (2) That the provider is capable of effectively and efficiently
- 32 operating the program.
- 33 (3) That the provider is willing and able to accept the
- 34 AFDC-FC-eligible nonminor dependents for placement by the
- 35 placing agency who need the level of care and services that will
- 36 be provided by the program.
- 37 (4) That the plan of operation is suitable to meet the needs of
- 38 the identified population.
- 39 (5) *That the program staffing ratio of case manager to client is*
- 40 *no less than 1 to 12.*

1 (6) *As used in subdivision (c), “applicable county,” for purposes*
2 *of the certification of a program that serves nonminor dependents,*
3 *means the county where the administrative office or*
4 *subadministrative office of a transitional housing placement*
5 *provider is located, or a primary placing county.*

6 ~~SEC. 69.~~

7 SEC. 65. Section 18251 of the Welfare and Institutions Code
8 is amended to read:

9 18251. As used in this chapter:

10 (a) “County” means each county participating in an
11 individualized or wraparound services program.

12 (b) “County placing agency” means a county welfare or
13 probation department, or a county mental health department.

14 (c) “Eligible child” means a child or nonminor dependent, as
15 described in subdivision (v) of Section 11400, who is any of the
16 following:

17 (1) A child or nonminor dependent who has been adjudicated
18 as either a dependent, transition dependent, or ward of the juvenile
19 court pursuant to Section 300, 450, 601, or 602 and who would be
20 placed in a group home licensed by the department at a rate
21 classification level of 10 or higher.

22 (2) A child or nonminor dependent who is currently, or who
23 would be, placed in a group home licensed by the department at
24 a rate classification level of 10 or higher.

25 (3) A child who is eligible for adoption assistance program
26 benefits when the responsible public agency has approved the
27 provision of wraparound services in lieu of out-of-home placement
28 care at a rate classification level of 10 or higher.

29 (d) “Wraparound services” means community-based intervention
30 services that emphasize the strengths of the child and family and
31 includes the delivery of coordinated, highly individualized
32 unconditional services to address needs and achieve positive
33 outcomes in their lives.

34 (e) “Service allocation slot” means a specified amount of funds
35 available to the county to pay for an individualized intensive
36 wraparound services package for an eligible child. A service
37 allocation slot may be used for more than one child on a successive
38 basis.

1 ~~SEC. 70.~~

2 *SEC. 66.* Section 18964 of the Welfare and Institutions Code
3 is amended to read:

4 18964. (a) Notwithstanding any provision of law governing
5 the disclosure of information and records, including, but not limited
6 to, Section 5328 of the Welfare and Institutions Code, a person
7 who is trained and qualified to serve on a multidisciplinary
8 personnel team pursuant to subdivision (d) of Section 18951,
9 whether or not the person is serving on a team, may be deemed,
10 by the team, to be part of the team as necessary for the purpose of
11 the prevention, identification, management, or treatment of an
12 abused child and his or her parents. The designated team may deem
13 a person to be a member of the team for a particular case, and that
14 team shall specify its reasons, in writing, for deeming that person
15 to be a member of the team. The person, when deemed a member
16 of the team, may receive and disclose information relevant to a
17 particular case as though he or she were a member of the team.
18 The information and records which may be disclosed shall not be
19 restricted to those obtained in the course of providing services
20 pursuant to this chapter.

21 (b) The caregiver of the child and, in the case of an Indian child,
22 the child's tribe shall be permitted to provide information about
23 the child to the multidisciplinary personnel team that will be
24 considered by the team and to attend meetings of the
25 multidisciplinary personnel team, as deemed appropriate by the
26 team, without becoming a member of the team. Any caregiver or
27 tribal representative who attends multidisciplinary personnel team
28 meetings shall agree in writing not to disclose any confidential
29 information he or she receives as a result of his or her participation
30 with the team.

31 (c) This section does not apply to the records of or pertaining
32 to a nonminor dependent. The multidisciplinary personnel team
33 may have access to those records only with the explicit written
34 and informed consent of the nonminor dependent.

35 ~~SEC. 71.~~

36 *SEC. 67.* Section 18986.46 of the Welfare and Institutions
37 Code is amended to read:

38 18986.46. (a) A program shall utilize children's
39 multidisciplinary services teams, as defined in this chapter.

1 (b) A team member shall provide program services only as
2 employed by, under contract with, or otherwise affiliated with, the
3 program, and shall not share information, or provide program
4 services, when acting as a separate local, state, or private agency
5 or entity.

6 (c) A program shall be considered a single program for purposes
7 of federal substance abuse program regulations contained in Part
8 2 (commencing with Section 2.1) of Title 42 of the Code of Federal
9 Regulations.

10 (d) Notwithstanding any other provision of law regarding
11 disclosure of information and records, a program shall be permitted
12 to establish a unified services record for a child and family. That
13 record shall contain all records of prior services that are released
14 to the program and that are relevant and necessary to formulate an
15 integrated services plan, pursuant to valid written authorizations,
16 as well as a record of all service provided under the program.

17 (e) Notwithstanding any other provision of law regarding
18 disclosure of information and records, when a child enters the
19 program a parent, guardian, judicial officer with jurisdiction over
20 the minor, or a minor with legal power to consent, or nonminor
21 dependent, as described in subdivision (v) of Section 11400, shall
22 be asked to sign a single authorization that gives a knowing and
23 informed consent, in writing, and that complies with all other
24 applicable provisions of state law governing release of medical,
25 mental health, social service, and educational records, and that
26 covers multiple service providers, in order to permit the release of
27 records to the program. This single authorization shall not include
28 adoption records. The authorized representative of the child, or
29 the child in a case where he or she has the legal right to consent,
30 or the nonminor dependent, shall be fully apprised of the
31 requirements of this subdivision prior to participation in the
32 program. Before information may be exchanged about a particular
33 child or family pursuant to this chapter, a representative of the
34 program shall do all of the following:

35 (1) Explain to the authorized representative of the child, or the
36 child in a case where he or she has the legal right to consent, or
37 the nonminor dependent, both of the following, and this explanation
38 shall be given before any information about the child or family is
39 recorded and before any services are provided:

1 (A) Information provided by the child or family, or nonminor
2 dependent, may only be exchanged within the program with the
3 express written consent of the authorized representative.

4 (B) Information shall not be disclosed to anyone other than
5 members of the children's multidisciplinary services team, and
6 those qualified to receive information as explained in subdivision
7 (i).

8 (2) The authorized representative of the child, or the child in a
9 case where he or she has the legal right to consent, or the nonminor
10 dependent, shall be informed that he or she has a right to refuse to
11 sign, or to limit the scope of, the consent form, and that a refusal
12 to sign, or to limit the scope of, the consent form will not have an
13 adverse impact on the client's eligibility for services under the
14 programs described in this chapter.

15 (f) The knowing and informed consent given pursuant to this
16 chapter shall only be in force for the time that the child or family,
17 or nonminor dependent, is a client of the program.

18 (g) (1) Notwithstanding any provision of state law governing
19 the disclosure of information and records, persons who are trained,
20 qualified, and assigned by their respective agencies to serve on
21 teams within a program and other team members included pursuant
22 to this chapter may view relevant sections of unified program
23 records and may disclose to one another relevant information and
24 view records on a child or the child's family as necessary to
25 formulate an integrated services plan or to deliver services to
26 children and their families.

27 (2) This information and records may include information
28 relevant to the evaluation of the child and his or her family, the
29 development of a treatment plan for the child and his or her family,
30 and the delivery of services. Relevant information and records
31 shall be shared with family members or family designees on the
32 team, except information or records, if any, disclosure of which
33 the team determines would present a reasonable risk of a significant
34 adverse or detrimental effect on the minor's psychological or
35 physical safety.

36 (h) (1) If the members of a children's multidisciplinary services
37 team within an integrated children's services program require
38 records held by other team members, copies may be provided to
39 them.

(2) Notwithstanding any other provisions of law regarding disclosure of information and records, a program may establish and maintain a common data base for the purpose of delivering services under the program. The database may contain demographic data and may identify the services recommended for, and provided to, a child and his or her family by the program. The database shall be for use and disclosure only within the program, except by properly authorized consent by a parent, guardian, judicial officer with jurisdiction over the child, or a minor with the legal power to consent.

(3) The program may authorize use of information contained in the database for bona fide evaluation and research purposes, unless otherwise prohibited by law. No information disclosed under this paragraph shall permit identification of the individual patient or client. The release of copies of mental health records, physical health records, and drug or alcohol records in programs establishing a unified services record shall be governed by the single authorization of informed and knowing consent to release these records. In programs not establishing a unified services record and not utilizing the single authorization of informed and knowing consent, release of these records may take place only after the team has received a form permitting release of records on the child or the child's family, signed by the child, to the extent the records were generated as a result of health care services to which the child has the power to consent under state law, or, to the extent that the records have not been generated by the provision of these health care services, by the child's parent, guardian, or legal representative, including the court which has jurisdiction over those children who are wards or dependents of the court.

(i) The children's multidisciplinary services team may designate persons qualified pursuant to Section 18986.40 to be a member of the team for a particular case. A person designated as a team member pursuant to this subdivision may receive and disclose relevant information and records, subject to the confidentiality provisions of subdivision (k).

(j) The sharing of information permitted under subdivision (g) shall be governed by memoranda of understanding among the participating service providers or agencies in the coordinated children's service system or program. These memoranda shall specify the types of information that may be shared without a

signed release form, in accordance with subdivision (e), and the process to be used to ensure that current confidentiality requirements, as described in subdivision (k), are met. This paragraph shall not be construed to waive any right of privilege contained in the Evidence Code, except in compliance with Section 912 of that code.

(k) Every member of the children's multidisciplinary services team who receives information or records on children and families served in the integrated children's services program shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(l) This section shall not be construed to restrict guarantees of confidentiality provided under federal law.

(m) Information and records communicated or provided to the program, by all providers, programs, and agencies, as well as information and records created by the program in the course of serving its children and their families, shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Civil and criminal penalties shall apply to the inappropriate disclosure of information held by the program. Nothing in this section shall be construed to affect the authority of a health care provider to disclose medical information pursuant to paragraph (1) of subdivision (c) of Section 56.10 of the Civil Code.

~~SEC. 72.~~

SEC. 68. (a) The State Department of Social Services shall develop regulations to implement this act, in consultation with concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, and researchers. In developing these regulations, the department shall consider its Manual of Policy and Procedures, Chapter 30-000, Sections 30-912, 30-913, 30-916, and 30-917, as guidelines for developing regulations that are

1 appropriate for young adults who can exercise incremental
2 responsibility concurrently with their growth and development.
3 The department, in its consultation with stakeholders, shall take
4 into consideration the impact to the Automated Child Welfare
5 Services Case Management Services (CWS-CMS) and required
6 modifications needed to accommodate eligibility determination
7 under this section, benefit issuance, case management across
8 counties, and recognition of the legal status of nonminor
9 dependents as adults, as well as changes to data tracking and
10 reporting requirements as required by the Child Welfare System
11 Improvement and Accountability Act of 2001 as specified in
12 Section 10601.2, and federal outcome measures as required by the
13 federal John H. Chafee Foster Care Independence Program (42
14 U.S.C. Sec. 677(f)).

15 (b) Notwithstanding the rulemaking provisions of the
16 Administrative Procedure Act (Chapter 3.5 (commencing with
17 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
18 Code), the department shall prepare for implementation of the
19 applicable provisions of this act by publishing, after consultation
20 with the stakeholders listed in subdivision (a), all-county letters
21 or similar instructions from the Director of Social Services by
22 April 1, 2013. Emergency regulations to implement the applicable
23 provisions of this act may be adopted by the director in accordance
24 with the Administrative Procedure Act. The initial adoption of the
25 emergency regulations and one readoption of the emergency
26 regulations shall be deemed to be an emergency and necessary for
27 the immediate preservation of the public peace, health, safety, or
28 general welfare. Initial emergency regulations and the first
29 readoption of those emergency regulations shall be exempt from
30 review by the Office of Administrative Law. The emergency
31 regulations authorized by this section shall be submitted to the
32 Office of Administrative Law for filing with the Secretary of State
33 and shall remain in effect for no more than 180 days.

34 *SEC. 69. The Judicial Council may adopt any rules of court*
35 *or Judicial Council forms necessary to implement this act.*

36 ~~SEC. 73.~~

37 *SEC. 70.* No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution for certain
39 costs that may be incurred by a local agency or school district
40 because, in that regard, this act creates a new crime or infraction,

1 eliminates a crime or infraction, or changes the penalty for a crime
2 or infraction, within the meaning of Section 17556 of the
3 Government Code, or changes the definition of a crime within the
4 meaning of Section 6 of Article XIII B of the California
5 Constitution.

6 However, if the Commission on State Mandates determines that
7 this act contains other costs mandated by the state, reimbursement
8 to local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

11 ~~SEC. 74.~~

12 *SEC. 71.* This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 In order to ensure accurate and timely instructions, guidance,
17 rules, and regulations for child welfare agencies, probation
18 departments, and tribal governments, needed for the
19 implementation of provisions of Assembly Bill 12 (Chapter 559
20 of the Statutes of 2010) that became operative on or before January
21 1, 2012, it is necessary for this act to take effect immediately.